

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

TRANSCRIBED VIDEO FILE

South Carolina Senate
V. C. Summer Nuclear Project Review Committee
September 18, 2017

COMPUSCRIPTS, INC.
CLIENT FOCUSED. DEADLINE DRIVEN.

803.988.0086
888.988.0086

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

00:00:01

CHAIRMAN SETZLER: Good morning. We'd like to welcome everybody, Senator Massey and myself, as co-chairs of this committee. We have a number of committee members who are currently on the way. Senator Sabb, Senator Rankin, Senator Alexander, and Senator Gregory, I believe, are all on the way, so they should be here momentarily, but for the sake of time, we're going to go ahead and start.

I believe we had people who were up here. We'd ask you to come back up, and if you -- there's been an indication there might be some additional people you want to bring up, but some of you were already under oath. Let's get everybody at the table up here.

Okay, I believe everybody that's up here, except for Mr. Marsh -- and we're glad to have you with us. Glad you're feeling better, and I'm going to ask Senator Massey to swear you in, please, since the others have already been sworn in.

CHAIRMAN MASSEY: Hopefully you're feeling better. Will you raise your right hand for us, please? Do you swear to tell

1 the truth, the whole truth, and nothing but the
2 truth, so help you God?

3 MR. MARSH: I do.

4 CHAIRMAN MASSEY: Thank you, sir.
5 The others, Mr. -- Senator Setzler, the others
6 have already been sworn in.

7 CHAIRMAN SETZLER: Correct.

8 CHAIRMAN MASSEY: Since we just
9 recessed, I think that does maintain.

10 CHAIRMAN SETZLER: I think that's
11 correct. Also, on behalf of the members of the
12 committee, we are here to try to learn what is
13 -- happened in this matter, and it is of major
14 significance as we talked about to the State of
15 South Carolina, but at the same time, we
16 recognize what your employees of both SCANA and
17 Santee Cooper did last week for the citizens of
18 this state as the result of the hurricane, and
19 we would like to thank those people who were on
20 the ground for both companies who restored power
21 to thousands and thousands of South Carolinians,
22 and we appreciate what they do every day.

23 We're going to go ahead and
24 start. Mr. Carter, I want to start with you if
25 that's okay. Well, let me introduce -- have

1 each member of the committee introduce
2 themselves, starting with Senator Hutto -- you
3 know Senator Massey and myself as co-chairs --
4 and what area you represent.

5 SENATOR HUTTO: Senator Brad
6 Hutto: Allendale, Bamberg, Barnwell, Hampton,
7 Colleton, and Orangeburg.

8 SENATOR SCOTT: Senator Scott:
9 Richland, right up to the line of Fairfield
10 County.

11 SENATOR BENNETT: Good morning.
12 Sean Bennett: Dorchester, Berkeley, and
13 Charleston Counties.

14 SENATOR GOLDFINCH: Good morning.
15 Stephen Goldfinch: Horry, Georgetown, and
16 Charleston Counties.

17 CHAIRMAN SETZLER: Okay. Mr.
18 Carter, I want to go to you first, and I'll ask
19 the committee to give me just a few minutes, and
20 then we'll go forward on other matters. At the
21 last meeting, we talked about your compensation
22 and specifically asked about bonuses that were
23 paid last year. Y'all were very emphatic that
24 you only paid \$70,000 in bonuses last year. I
25 believe, if I recall the testimony, you brought

1 up a lady, and that's what you said was \$70,000;
2 is that correct?

3 MR. CARTER: Yes. That's the
4 portion of the bonus that was related to
5 nuclear, or incentive. It's actually incentive
6 pay. Only -- that was only the portion that had
7 any bearing on Summer Units 2 and 3.

8 CHAIRMAN SETZLER: Well, that's
9 what I want to talk about because we used the
10 word "bonus," and you didn't mention additional
11 compensation or incentive compensation. I've
12 now read your employment contract, the amendment
13 to it, and the memorandum to it, and it refers
14 to additional compensation. Is that different
15 from a bonus, or incentive, as you've just
16 referred to?

17 MR. CARTER: I think what it's
18 referring to there is the incentive pay.
19 There's a compensate -- there's a -- there are
20 two other things that go in there. There's a
21 life insurance policy, which is fairly small,
22 and car allowance, or a vehicle allowance. I
23 believe that's what makes that up.

24 CHAIRMAN SETZLER: Well, again,
25 you didn't --

1 MR. CARTER: The incentive pay
2 and the base pay.

3 CHAIRMAN SETZLER: Is there a
4 difference in incentive pay and additional
5 compensation under your contract? And I'm
6 talking about your contract specifically.

7 MR. CARTER: Specifically what
8 I'm paid is the base salary, the incentive pay,
9 and then there's the -- in the information that
10 we provided, there's an "other" column, which is
11 what I'm assuming you're referring to.

12 CHAIRMAN SETZLER: And that's
13 your hospitalization, your car allowance, all of
14 the other stuff.

15 MR. CARTER: I don't believe it
16 includes hospitalization, but I believe it
17 includes car allowance, an annual physical, now
18 that I think about it, and a life insurance
19 policy.

20 CHAIRMAN SETZLER: All right, so
21 then what was your base pay last year? Before
22 you retired, what was your base pay?

23 MR. CARTER: Five hundred and
24 forty thousand dollars and a little bit.

25 CHAIRMAN SETZLER: Okay, and what

1 was your additional compensation?

2 MR. CARTER: It's in that record,
3 the last piece. I think it's 330,000, but I've
4 -- we can pull up the document. I --

5 CHAIRMAN SETZLER: So that's a
6 total of eight hundred and something thousand
7 dollars.

8 MR. CARTER: Yes, sir.

9 CHAIRMAN SETZLER: All right. So
10 how many employees does Santee Cooper have
11 total?

12 MR. CARTER: About 1750, 1760.

13 CHAIRMAN SETZLER: And of those,
14 all of them participate in the South Carolina
15 Retirement System.

16 MR. CARTER: Yes, sir.

17 CHAIRMAN SETZLER: And you
18 participate in the South Carolina Retirement
19 System.

20 MR. CARTER: Yes, sir.

21 CHAIRMAN SETZLER: All right,
22 sir. Did you TERI at all?

23 MR. CARTER: No, sir.

24 CHAIRMAN SETZLER: Never TERI'd.
25 I know you waived part or all of your TERI in

1 your employment contract you entered into.

2 MR. CARTER: Yes, sir, and that
3 really was the purpose behind that contract.
4 The board did not want me to TERE.

5 CHAIRMAN SETZLER: Okay, and do
6 you draw South Carolina retirement now?

7 MR. CARTER: No, sir.

8 CHAIRMAN SETZLER: Okay. When
9 will you draw it?

10 MR. CARTER: When I go onto the
11 retirement system at the end of February.

12 CHAIRMAN SETZLER: All right, and
13 so tell us about the Santee Cooper defined
14 contribution plan.

15 MR. CARTER: There, there are two
16 retention plans. There's a defined contribution
17 plan that is for the executives. It's been in
18 place for years. It's been reviewed before by
19 the Senate, and is -- in my case, it was -- as
20 president, it was 6 percent -- it, it -- prior
21 to being president, I was also an officer that
22 was in that plan, so prior to that, it was just
23 6 percent of your base salary, and then when I
24 became president, a \$10,000 a year additional
25 amount was put into that account. So it's a

1 deferred -- it's a -- it's like a 401k. It's a
2 deferred account.

3 CHAIRMAN SETZLER: So how many
4 members of -- employees of Santee Cooper are
5 eligible or participate in this defined
6 contribution plan out of the 1700?

7 MR. CARTER: Seven or eight
8 current.

9 CHAIRMAN SETZLER: How many
10 others in the past?

11 MR. CARTER: All of the former
12 officers that would have been the executives of
13 the company participated in it for as -- we'd
14 have to go back and look and see how long it's
15 been in place, but as long as I can remember.

16 CHAIRMAN SETZLER: So out of 1700
17 employees, only seven or eight have benefit of
18 this one particular deferred plan.

19 MR. CARTER: Yes, sir.

20 CHAIRMAN SETZLER: Okay, and then
21 you have a deferred benefits plan.

22 MR. CARTER: There's a --

23 CHAIRMAN SETZLER: One is a
24 defined contribution plan, which is the one you
25 say only seven or eight people --

1 MR. CARTER: Yes, sir.

2 CHAIRMAN SETZLER: -- participate
3 in. Then you have a deferred compensation plan.

4 MR. CARTER: There's a --
5 something -- there's a defined -- there's
6 another -- what we call a DB plan. It's a
7 defined benefit plan, and that's a retention
8 plan for top executives or top talent, and the
9 -- I'm -- that covers more than just the
10 executives.

11 CHAIRMAN SETZLER: All right,
12 sir, so how many people does it cover out of the
13 1700?

14 MR. CARTER: I'm going to -- we'd
15 have to get an exact count, but about 20 to 25
16 because it does change from time to time as
17 people retire.

18 CHAIRMAN SETZLER: Including the
19 other seven or eight.

20 MR. CARTER: Yes, sir. They
21 would be included in that 20 or 25, so that
22 would be the total, and that would be the number
23 of active people, meaning the --

24 CHAIRMAN SETZLER: And what do
25 you receive from it?

1 MR. CARTER: In my case, my case
2 it would be -- I think it's actually matured to
3 51 percent for 20 years. That's historically
4 what the president's package has looked like.
5 This package is intended to retain talent.
6 That's what it was put in place for, according
7 to the people that advised the board. The
8 board's been administering this program for
9 years. It dates back well before the '90s
10 because it already existed when I became an
11 officer.

12 CHAIRMAN SETZLER: All right, so
13 your 25 top people -- my words, not yours -- get
14 South Carolina state retirement, they -- seven
15 or eight of them get this one plan, and the rest
16 of them get the other plan, so there's three
17 plans there that they get the benefit of.

18 MR. CARTER: Yes, sir.

19 CHAIRMAN SETZLER: And doesn't
20 your plan -- don't you get a, like --
21 (INDISTINCT) get 65 percent of your current
22 salary as additional compensation?

23 MR. CARTER: That's the incentive
24 plan.

25 CHAIRMAN SETZLER: Right.

1 MR. CARTER: Yes, sir.

2 CHAIRMAN SETZLER: So you get
3 that also.

4 MR. CARTER: Yes, sir.

5 CHAIRMAN SETZLER: All right.
6 How many -- of the 20 to 25 people that are in
7 the defined benefit plan, how many of those are
8 vice presidents?

9 MR. CARTER: Most all of the vice
10 presidents would be in the defined benefit plan,
11 and then some other key managers.

12 CHAIRMAN SETZLER: And so how
13 many of those are vice presidents? Do you have
14 22 vice presidents at Santee Cooper?

15 MR. CARTER: I don't believe so.
16 I think if you look at the total officers, I
17 think there are 17 or 18. We can get an exact
18 count.

19 CHAIRMAN SETZLER: Can you give
20 us an organizational chart --

21 MR. CARTER: Yes, sir.

22 CHAIRMAN SETZLER: -- with the
23 title of each person?

24 MR. CARTER: Yes, sir. We could
25 do that, and that would be the better way to do

1 it because it does change from time to time
2 because of retirements and --

3 CHAIRMAN SETZLER: What does the
4 defined benefit plan that these 20, 25 people
5 cost Santee Cooper a year and the ratepayers?

6 MR. CARTER: I couldn't tell you
7 that. I don't know. There's a --

8 CHAIRMAN SETZLER: You don't have
9 any idea what it cost?

10 MR. CARTER: No, sir, because
11 it's a -- the amount that's actually put on the
12 books and accrued is done by an actuarial study
13 that's done by Findley Davies, and it's not the
14 most significant cost in our payroll costs.

15 CHAIRMAN SETZLER: So what about
16 the defined contribution plan? What does it
17 cost?

18 MR. CARTER: Again, it would be
19 smaller than the defined benefit plan because
20 fewer people are in it. We can get you exact
21 numbers. It's -- that number is actually
22 calculated and determined because it's put into
23 a plan, so it would be based on the -- everybody
24 that's in it, their base salary.

25 The other plan, because it also

1 has a life insurance component to it -- in other
2 words, it pays out either at your retirement or
3 at death, and so the amount that gets put on the
4 books each year that's accrued for is actually a
5 calculation of everybody that's in that plan and
6 their ages and all those things that go with it,
7 and so there's a calculation for it.

8 CHAIRMAN SETZLER: And so as the
9 CEO of Santee Cooper, you don't have any idea
10 how much either one of those plans cost Santee
11 Cooper a year?

12 MR. CARTER: No, sir, I don't.

13 CHAIRMAN SETZLER: Okay --

14 MR. CARTER: Because they're not,
15 they're not significant.

16 CHAIRMAN SETZLER: -- can you get
17 us those numbers? Can you get us those numbers?

18 MR. CARTER: Yes, sir, we can.

19 CHAIRMAN SETZLER: All right, so
20 -- and when you signed your employment contract,
21 did you get a \$50,000 bonus, or payment?

22 MR. CARTER: The initial contract

23 --

24 CHAIRMAN SETZLER: Correct.

25 MR. CARTER: -- I did not, but

1 the -- at --

2 CHAIRMAN SETZLER: On the signing
3 of the first amendment.

4 MR. CARTER: The -- yes, sir. So
5 there's the original contract, and then there's
6 the amendment, and there was an additional
7 \$50,000 put into the defined contribution plan,
8 yes, sir.

9 CHAIRMAN SETZLER: All right,
10 sir, and when you gave Santee Cooper your notice
11 of retirement -- I believe you're retiring
12 December 31st?

13 MR. CARTER: February.

14 CHAIRMAN SETZLER: February.

15 MR. CARTER: Yes, sir.

16 CHAIRMAN SETZLER: First?

17 MR. CARTER: February 28th.

18 CHAIRMAN SETZLER: Twenty-eighth.

19 what contribution is made under that first
20 amendment and the memorandum to your retirement
21 plan? Is it the 50,000 or the 250,000?

22 MR. CARTER: The 50,000 has
23 already been made, and I don't qualify for the
24 250,000 because I didn't stay till the end.

25 CHAIRMAN SETZLER: Well, I think

1 you're eligible for it whether you stay till the
2 end or not. Did you get the \$50,000
3 contribution when you retired?

4 MR. CARTER: That's --

5 CHAIRMAN SETZLER: In February,
6 when you retire, will you get the 50 or the 250?

7 MR. CARTER: The -- this is not
8 -- once the money is placed into this account,
9 it's there, and at any time that I leave, for
10 whatever reason, it would be mine. That's the
11 way that account is set up, so I want to be
12 clear to you, so, yes, sir, the \$50,000 is
13 sitting in that account, and it's mine.

14 CHAIRMAN SETZLER: We're talking
15 about --

16 MR. CARTER: Or my beneficiaries.

17 CHAIRMAN SETZLER: -- two
18 different things, Mr. Carter. Let me go back.

19 MR. CARTER: Mm-hmm.

20 CHAIRMAN SETZLER: You got
21 \$50,000 when you signed the first amendment.

22 MR. CARTER: Yes.

23 CHAIRMAN SETZLER: Then there is
24 a whole laundry list of when leave employment
25 with Santee Cooper, for cause, without cause,

1 you either get 50 or 250. So you're leaving
2 Santee Cooper February 1st because under that
3 agreement, as I read it, you get \$50,000 if they
4 get rid of you for cause. So which are you
5 going to get in February, the 50 or the 250?

6 MR. CARTER: I -- Senator
7 Setzler, I'm not familiar with -- the only thing
8 that I will -- because I gave six months' notice
9 under that agreement, I'm entitled to a half a
10 year's pay for the next 12 months. And that was
11 put -- that's put in there, again, according to
12 the people that put the agreement together for
13 Santee Cooper because during that period of
14 time, I'm not allowed to -- there's a laundry
15 list of people that I'm not allowed to work for.
16 It's a noncompete provision.

17 CHAIRMAN SETZLER: All right, so
18 when you retire, Mr. Carter, in February, what
19 is the total amount of money you're going to
20 receive in compensation?

21 MR. CARTER: The -- I will
22 receive that half a year's payment over a year,
23 and then I will receive my retirement benefits.
24 And then I would also be eligible for any
25 vacation that I haven't taken.

1 CHAIRMAN SETZLER: Do you get any
2 additional incentive? What do you think your
3 total retirement package is going to amount to
4 per year?

5 MR. CARTER: The two -- the
6 defined benefit plan that we've talked about
7 earlier and the state retirement, my guess would
8 be somewhere around seven -- it should be a
9 little bit over \$700,000 a year. That's my
10 guess. But I really haven't calculated or
11 looked at it.

12 CHAIRMAN SETZLER: So do you --
13 that's your testimony, that that's all you're
14 going to receive?

15 MR. CARTER: That's what I will
16 get in -- I want to be clear. I want to --
17 that, that will be the retirement pay, and then
18 I've also mentioned the half-year's pay --

19 CHAIRMAN SETZLER: Correct.

20 MR. CARTER: -- that I'll get.

21 CHAIRMAN SETZLER: How much is
22 that?

23 MR. CARTER: It would be half of
24 \$540,000.

25 CHAIRMAN SETZLER: Two-hundred

1 and fifty thousand dollars, roughly, ballpark.
2 Two-seventy.

3 MR. CARTER: Two-seventy, yes,
4 sir. And then these -- this defined
5 contribution plan, whatever money's been in
6 there -- and I've been in it for years, for a
7 long period of time -- that money -- it's like a
8 401k plan, so that's money is mine.

9 CHAIRMAN SETZLER: Okay, and how
10 much have you got in there?

11 MR. CARTER: I have a -- I can't
12 tell you specifically. I want to say it's like
13 800,000. I have a separate -- I also have a
14 401k and a 457 account that are deferred
15 accounts that are mine that are money that I put
16 in --

17 CHAIRMAN SETZLER: Correct.

18 MR. CARTER: -- over the years.

19 CHAIRMAN SETZLER: Yeah,
20 separate; I understand what you're talking
21 about.

22 MR. CARTER: And so I've looked
23 at them together, but I've not ever -- you know,
24 I add them up and look at them --

25 CHAIRMAN SETZLER: So you've got

1 800,000 in that one plan. What about in the
2 other one?

3 MR. CARTER: The other one, it's
4 -- they've about got the same thing because the
5 total is about 1.6 million between the two.
6 Between -- really, actually, there's three of
7 them because I've got a 457, 401, and then that
8 defined contribution plan, yes, sir.

9 CHAIRMAN SETZLER: All right,
10 sir, and then one other question for you. Why,
11 when you signed your amendment to your contract
12 that you entered into, the first amendment, why
13 did you sign on the same day a memorandum of
14 understanding of what that amendment contained
15 that had additional provisions in it that
16 weren't in the first amendment? Why did they --
17 why wasn't it all put in the first amendment?

18 MR. CARTER: That -- because
19 that's the way that the people that were
20 advising Santee Cooper's board wanted to do it.
21 I -- that wasn't my decision. I didn't even ask
22 for it.

23 CHAIRMAN SETZLER: Okay. Let's
24 -- I won't monopolize the time. I'll come back
25 to it in a few minutes, okay? Senator from

1 Richland?

2 MR. SCOTT: I want to look at the
3 revised rate implemented. How many times did we
4 do that? I'm following this flow chart and time
5 line on it. How, how many times did we actually
6 have a revised rate increase?

7 MR. CARTER: Let me get that
8 document, or if somebody else has it quickly,
9 I'll be glad to look at it. I don't know that I
10 brought it with me, that particular document.

11 MR. SCOTT: Well, while you're
12 trying to find it, I want to go to -- bring your
13 attention to the December 13 revised rate --
14 when it was implemented, and I notice one month
15 later, on the -- that's 2013, and in January
16 2014 --

17 CHAIRMAN MASSEY: Senator --

18 MR. SCOTT: -- I see that --

19 CHAIRMAN MASSEY: -- can you hold
20 on just a second? We're going to put that time
21 line down on the screen --

22 MR. SCOTT: Okay, I'm --

23 CHAIRMAN MASSEY: -- so everybody
24 can look at it while you're talking --

25 MR. SCOTT: Sounds great.

1 CHAIRMAN MASSEY: -- so we can
2 all follow along, it that's okay.

3 MR. SCOTT: That'll be fine.

4 CHAIRMAN MASSEY: This is the one
5 you're talking about?

6 MR. SCOTT: Yeah, the time line.
7 I see the first time line, what looks like is
8 November 2009. It looks like it was the first
9 time we had a revised rate -- I guess that what
10 y'all -- you call an increase, November 2009,
11 and then I see another on December 2012. And
12 then -- which brings to my attention, on
13 December 2013, a year later.

14 I notice one month later, there's
15 a Santee Cooper contract to sell 5 percent
16 interest in the nuclear project. It's South
17 Carolina Electric & Gas. I'm trying to figure
18 out if we just had a rate increase, tell me
19 about the 5 percent, what does that represent in
20 dollars and cents if it was actually sold and
21 whether or not the contract was ever completed.

22 MR. CARTER: Yes, sir. The five
23 -- first of all, back -- way back, all the way
24 into 2009, for load reasons, as we showed last
25 time, we knew we needed to sell a piece of our

1 ownership, so we actively worked on that, signed
2 nondisclosure agreements with a number of
3 companies to have them take a look at buying
4 into the project. And ultimately, all of those
5 parties backed out, and SCANA agreed to buy, or
6 own, another 5 percent and purchase it at the
7 end of the project.

8 The project had to come online
9 for that 5 percent sale to be consummated, so
10 2 1/2 percent of the first unit -- it was done
11 in percentages over the next two or three years
12 after the units came online. So there is a
13 signed agreement that provides for that sale to
14 take place, but that sale only actually
15 transfers when the units are complete.

16 MR. SCOTT: What does that 5
17 percent represent in dollars and cents? Is that
18 contract value at this point, or is it value at
19 the total amount invested in the total project?

20 MR. CARTER: It would pay back
21 the amount that was invested, yes, sir.

22 MR. SCOTT: Okay, and I guess at
23 that time, we're looking at the cost of the
24 project gradually increasing. I'm told in the
25 \$9.3 billion, I think y'all had 4.14 billion in

1 it; correct me if I'm mistaken. Of the \$9.3
2 billion in the project, how much money does
3 Santee Cooper have invested in it?

4 MR. CARTER: Our total amount, I
5 believe, is about 4.4.

6 MR. SCOTT: Okay.

7 MR. CARTER: That includes
8 interest and the transmission and some owner's
9 costs.

10 MR. SCOTT: So that will leave
11 SCE&G with about 4.9. And so during that time,
12 we just had a rate increase. Tell me a little
13 bit about that rate increase in 2013, or revised
14 rate. I guess that's a rate increase; correct
15 me if I'm wrong.

16 MR. CARTER: Yes, sir.

17 MR. SCOTT: Tell me a little bit
18 about that rate increase that will lead me to
19 want to sell 5 percent of the project, 55 -- 50
20 -- I mean, 55 percent -- I'm sorry. They're 55
21 percent, and I'm 45 percent in the project, but
22 based on dollars and cents, I'm at 4.4 and
23 they're at 4.9. I just had a rate increase.
24 Tell me why I want to sell 5 percent of the
25 project at that stage when I just had a rate

1 increase.

2 MR. CARTER: Well, the rate
3 increases are based on the costs that Santee
4 Cooper is seeing, so the sale and the rate
5 increase aren't connected. They don't --
6 there's not a relationship at all between them,
7 except for the fact that that 5 percent piece,
8 the costs associated with it was completely
9 being deferred in anticipation that SCANA would
10 buy it at the end of the project, so there would
11 have been no cost in the cost column for --

12 MR. SCOTT: Then tell me why we
13 want to sell 5 percent, not knowing exactly how
14 much money I'm going to have in the project at
15 the end of the project when I've got an
16 investment almost -- or more than, at this point
17 -- more than -- just about equal to what SCE&G
18 had in the project. Tell me how we got to the
19 point when I needed to sell 5 percent. Maybe
20 I'm not clear. Tell me what drove Santee Cooper
21 to get to the point they needed to sell 5
22 percent of the project back to SCE&G or to
23 anybody.

24 MR. CARTER: We actually needed
25 to sell more, Senator Scott. We -- because we

1 had more power coming out of the project than
2 our load and the customers that we were to serve
3 needed, and I believe we showed that -- we could
4 bring that chart back up, but our load was
5 significantly less than when we signed the
6 contracts in 2008.

7 And so today -- if somebody had
8 walked in today and offered to buy a piece while
9 it was under construction, we would have sold at
10 least -- at the time, the -- I believe the
11 record will show that the board suggested that
12 we sell somewhere between 20 and 25 percent when
13 we were back trying to sell a portion of our
14 ownership. So we would have gone from 45 down
15 to 25 or 20, somewhere in that range.

16 SENATOR SCOTT: Now, you said you
17 had some other folk interest. What happened to
18 those folk who had interest that they did not
19 sell since I needed to sell 20 to 25 percent,
20 which gives me a tremendous margin to be able to
21 negotiate? Was it because of -- oh, you -- 20,
22 25 percent, you've got a lot of leverage, based
23 on dollars and cents, unless you're more worried
24 about what you've already got invested in the
25 project, or the companies who were looking at

1 your project, what they would have to actually
2 pay at the time the project was actually
3 completed.

4 MR. CARTER: At the time, they
5 would have come in and bought a piece and bought
6 -- the other thing we insisted that they take
7 were the full risks associated with the project.
8 Because the SCANA sale actually doesn't take the
9 full risk of the project. The project had to
10 get completed for that sale to consummate and us
11 to get those dollars. Types of sales that we
12 were looking at at that time were sales that
13 would have, you know, just bought into the
14 project and been a regular owner.

15 SENATOR SCOTT: Was that your way
16 of raising a red flag that Santee Cooper was
17 probably too far into this project, way beyond
18 the numbers they wanted to be into at this
19 point?

20 MR. CARTER: It -- I wouldn't say
21 it was a red flag, but it was clear that we had
22 more than we needed. We certainly didn't -- you
23 know, we were out marketing this thing in a big
24 way very publicly. I mean, we signed
25 nondisclosure agreements, I think, with about

1 half a dozen companies.

2 SENATOR SCOTT: Okay, so now we
3 -- three years later, I had a red flag in 2014
4 that I'm spending way more money ****25:51**** this
5 project was going (INDISTINCT). At what point,
6 other than getting three years down the road,
7 did Santee Cooper agree to sit down with its
8 corporate partners and say, We are -- this
9 project is way beyond what we discussed on the
10 front end. We're back at 2014, three years ago.
11 We need to stop this project now and actually
12 take a look at where our numbers were because
13 I'm more than sure at 2014, you were not \$4.4
14 billion in the project. Do you remember how much
15 you were into the project at that point?

16 MR. CARTER: No, sir, I don't
17 know how much we were into it, but we would --
18 remember, as I just spoke earlier, we would have
19 -- we were trying to sell a piece of it back all
20 the way in 2010.

21 SENATOR SCOTT: But I'm saying --
22 my question is --

23 MR. CARTER: Started in 2009 --

24 SENATOR SCOTT: Right.

25 MR. CARTER: -- and went for a

1 period of time up until we signed the
2 arrangement with SCANA, and part of that
3 arrangement was -- is that SCANA asked us not to
4 try to sell anymore until the project came
5 online. And we believed at that time that when
6 the project did come online, we would be able to
7 sell a piece of it because then the construction
8 risk would be gone.

9 SENATOR SCOTT: But at the same
10 time, you continued to have increasing costs,
11 trying to offset it, although you had that
12 conversation in 2009. I mean, at what point do
13 you say to your partner, This is more than we
14 can actually afford to be in the deal?

15 MR. CARTER: What -- we didn't
16 reach that point. We felt like we had a
17 business plan that would allow us to complete
18 the projects, and at that -- and when we
19 completed, we would own 40 percent, and we would
20 be able to sell a piece or sell output, what, in
21 our industry, is called unit power sales --

22 SENATOR SCOTT: Right.

23 MR. CARTER: -- for a period of
24 time. And so we were always looking at our
25 business plan and the economics associated with

1 going forward. There were -- you know, the --
2 there's a difference between what I would call
3 the business plan and then what our concerns
4 were with the project getting completed.

5 SENATOR SCOTT: So at what point
6 did the red light come on, This thing is not
7 working according to plan and the dollars are
8 not where we need for them to be, and we really
9 need to have a serious talk with our partner
10 about what this thing is actually costing
11 Santee?

12 MR. CARTER: I would say that
13 that would have started well before -- even when
14 we were given the full notice to proceed, we
15 were already having problems with the modules
16 coming out of Lake Charles. So all the way
17 along, over time, and I think the records that
18 we provided -- and we can go through some of
19 those -- were showing that -- in fact, I'd be
20 glad to show you a chart of what I'm talking
21 about -- but we would look at -- one of -- the
22 most telling metric for me was, what was the
23 percent complete each month?

24 And so -- because initially, this
25 contract was a -- primarily a time and materials

1 contract. It didn't have a lot of fixed
2 components in it. And so ultimately, as we
3 dealt with that and dealt with those problems
4 that got so bad that the contractor -- our
5 contractor was not able to live up to and meet
6 the targets that they needed to meet in order to
7 complete on the schedule that they said they
8 were going to deliver on, that starting in 2014,
9 late '14 and through '15, that's why we
10 negotiated a fixed price.

11 We negotiated a fixed price
12 because we knew at that price, even though it
13 would be a stretch, sort of, to your point, we
14 knew we could, in our business plan, we could
15 afford that and have rates that would stay
16 competitive. But outside of that, once
17 Westinghouse goes bankrupt and won't honor that
18 contract and we're back to a time and materials,
19 that number just goes through the roof.

20 SENATOR SCOTT: Tell us a little
21 bit about those discussions, once you're
22 notified Westinghouse has gone broke or filed
23 bankruptcy. Now, the partners are back at the
24 table. We've got a project that we well
25 overspent on this project. Tell us a little bit

1 about some of those discussions that you had.
2 Early on, I wanted to sell off some because I've
3 got too -- much more than I need. I've got a
4 continuing escalated price. I've got the main
5 contractor who's gone broke. I mean, at what
6 point do I make the decision, I'm too far into
7 the deal, and this deal is going to only -- I'm
8 only going to get deeper and deeper and lose
9 more of my money? Because, now, keep in mind,
10 as you said earlier, you only needed 25 percent.

11 MR. CARTER: Mm-hmm.

12 SENATOR SCOTT: And you're still
13 stuck with 45 percent, but the costs associated
14 for the tail end when you finish is probably
15 going to be way more than you could actually
16 make out of the deal just trying to break even
17 again. So tell me a little bit about some of
18 those discussions that you had with your
19 partner, SCE&G, at the time Westinghouse goes
20 broke. And you've already raised these
21 concerns.

22 MR. CARTER: So -- right.
23 Leading up to March 29th of this year, we had a
24 fixed-price contract which we could afford,
25 Santee Cooper could afford. When they went

1 bankrupt, as I like to say, the curtain went
2 down over there, and we actually started to see
3 the -- how much we'd been deceived by our
4 contractor about what really was going on over
5 there and what they could do and couldn't do.

6 And so the -- over the next three
7 months, we took a very hard look -- we did,
8 SCANA's folks, some of Santee Cooper's folks,
9 some outside consultants took a very hard look
10 at what we believed, based on the information in
11 front of us, it would take to finish this
12 project. And those are the costs that we've
13 provided. And those costs were some -- if you
14 look at the total, I mean, it was 11 -- it was
15 going to cost more to finish it than we'd
16 already spent.

17 SENATOR SCOTT: Right.

18 MR. CARTER: And we -- and our
19 analysis -- this is important. Because we
20 didn't need it, in our analysis, we only looked
21 at the piece that we were going to have to spend
22 going forward. We did not look at what we had
23 already spent. And because we were able to get
24 the Toshiba payment, the settlement to actually
25 pay off if we didn't finish, we didn't have that

1 before we got that settlement. We had to finish
2 in order to get that payout under the way that
3 that contract was written.

4 And so that was one of the
5 concessions that we got from Toshiba, so that
6 wasn't included, but all of the money going
7 forward that we would have to spend going
8 forward is what we considered because the other
9 costs would be what, you know, accountants or
10 economists would say were sunk. So we were
11 looking at, what would it take to finish it?
12 And to finish it would take 40 -- we would have
13 to have had at least 41 percent rate increases,
14 and we wouldn't have been competitive, so we had
15 to stop and stay where we were.

16 It was just -- to -- quite
17 frankly, I think it was unconscionable what was
18 kept from us by our contractor. And I -- and
19 there's a way to look at this, and it leads back
20 to what was trying to be done with the Bechtel
21 report. I'll just -- I think -- y'all have
22 these documents, but I'll show you what I'm
23 talking about.

24 This chart -- and y'all have
25 these charts. You may -- there may actually be

1 a couple of them because it was something -- but
2 what this shows -- this is just -- this is what
3 I would call the ultimate measure of how well
4 you're doing. This is how much the project's
5 complete, so ultimately you've got to get to a
6 hundred percent. And so initially, when we
7 were looking at this, Westinghouse and CB&I were
8 getting about .3 percent on average completion a
9 month.

10 In order to meet this schedule --
11 so in other words, if this is your end date out
12 here, what type of productivity do you have to
13 have? The slope of this line represents sort of
14 -- you can think of it as productivity, and so
15 that productivity had to go up, and that number
16 had to -- so these numbers are important. The
17 decimal place, in this case, is important. It
18 was .3 under Westinghouse and CB&I, and it would
19 need to get to about 2, so a factor of, you
20 know, about a five- or a six-time increase
21 --

22 SENATOR SCOTT: Yes, sir.

23 MR. CARTER: -- in productivity.
24 And so that's why, in late -- starting in late
25 '14 and hard in '15, we pushed hard to get a

1 fixed-price contract and to undo those
2 commercial terms that the two -- CB&I and
3 Westinghouse were, as I would say, butting heads
4 over or fighting over and making the project not
5 be built efficiently.

6 And when -- once Fluor got
7 onboard, they had to have a period to get up to
8 speed, which -- and they were going to owe us a
9 schedule as well, and so they really -- and as
10 you'll see in the record, I think, that we sent
11 to you, I believe the time frame is about March
12 or April before they really got all of the CB&I
13 people out and their people in, and -- but over
14 the course of 2016, when Fluor had the project,
15 they got that number up to .7. I think that was
16 the highest number. They may have had a .8, but
17 these gentlemen could tell us if I'm exactly
18 right because it would be in the record.

19 But that number needed to
20 approach 2 in order -- and that's why -- so when
21 you would see -- the solid line is the actual,
22 and this line shows -- this lower line shows
23 where, if you stay at that rate, how long it
24 would take you to get to a hundred percent,
25 which would be well beyond your -- the dates

1 that they were giving us, and this is what you
2 had to get to.

3 And it was not, in my opinion --
4 I'm no construction expert. That's not my
5 expertise, but it could be done. It was done on
6 other projects. For some reason, they just
7 couldn't get their act together and get it done
8 on that site, and it had to do a lot with a lot
9 of cascading things, again, that were pointed
10 out in the Bechtel report. They -- I wouldn't
11 say that they were news, but they had a number
12 of suggestions of things that you could do to
13 fix the project. That's why that report's,
14 quite frankly, important. It didn't say to stop
15 the project. It said, Fix these things.

16 And to me, they sort of cascaded.
17 They started at the engineering not being
18 mature. That -- again, from my perspective and
19 having sat through all of this, that -- those
20 numbers -- you would have expected that on
21 first-of-the-kind units. You would have
22 expected some of that.

23 Then they had trouble, from that
24 -- if you think about it, the way these things
25 cascade down, then they had trouble getting the

1 work packages together, and, and when you see
2 the words "constructability," it doesn't mean
3 that it can't be done. It means that when you
4 designed one component, you didn't take another
5 one into account and some piece of conduit or
6 pipe might be running into something else. It's
7 not that, you know, the sky is falling. It
8 means you've got to change a drawing and make it
9 work. And so you knew that some of that was
10 going to take place.

11 And then in the NRC space or the
12 regulatory space that they operated under, that
13 -- there's a lot of acronyms used in this
14 business, and I never get them exactly right,
15 but there were something called NDCRs or
16 something, but those were the changes. Those
17 changes then had to go through a review or
18 regulatory process. So again, if you could, if
19 you could fix those things and streamline that,
20 then your productivity went up, so --

21 SENATOR SCOTT: I want to come to
22 Mr. Marsh, SCE&G. I want to pick right back up
23 with a project I'm having a lot of problems
24 with, parts not working. Tell me a little bit
25 about some of the safeguard SCE&G began to

1 utilize, and then Westinghouse goes broke.

2 what -- just kind of give me a
3 little time line as you -- as how SCE&G saw this
4 project when this project started spinning out
5 of control, especially spinning out of control
6 in terms of costs associated with getting this
7 project done, and also the team, the management
8 team at the site, when we continue to identify,
9 we're losing a lot more money, and trying to get
10 a company that's gone broke to still try to
11 finish up a project. I just want to kind of get
12 your insight of what you -- what SCE&G saw.

13 MR. MARSH: And I'll be glad to
14 address that, but I may ask Mr. Byrne to give
15 more details about the project itself. But I
16 would not characterize that the project is out
17 of control. We had engaged a competent
18 management team on the site since we started in
19 2008. We added to that team as the team -- as
20 necessary as the construction got more complex.
21 We didn't actually start the nuclear defined
22 construction until about the middle of 2012
23 because you couldn't start that until you got
24 the NRC license, which we got in March of 2012.

25 So as we identified issues, we

1 put teams together to work on those and address
2 those issues. I would agree with Mr. Carter's
3 comment that the Bechtel Report was not news.
4 The majority of those issues, we had identified.
5 We had put teams together to address those.
6 Some of those issues had already been addressed.
7 I, I believe, if my memory's correct, there were
8 around 79 comments in the Bechtel report. Over
9 50 of those were directed to the consortium, the
10 relationship between the consortium, and some of
11 the issues that Mr. Carter pointed out.

12 There were issues related to the
13 modules. There were issues related to design,
14 the constructability, where you had to make
15 changes in the field, which was complicated by
16 the Part 52 regulations of the Nuclear
17 Regulatory Commission, which I can have Mr.
18 Byrne go into. We had people on the ground
19 working on those issues as we identified those.
20 The purpose of the Bechtel report was to
21 document those issues with an independent
22 consultant for use in a potential litigation
23 against Westinghouse.

24 we had -- but even if the report
25 or some of the recommendations that came out of

1 the report -- we did not ignore those. We took
2 those and made changes to our project team. We
3 put into place a project management office to
4 match what was going on when Fluor came in from
5 the side with -- to partner with Westinghouse --
6 not to partner with Westinghouse, but to be the
7 primary contractor.

8 We believed that was a huge event
9 in the life cycle of this project. We knew, and
10 we had reported to the Commission, in our
11 hearings before them, that there were problems
12 between Chicago Bridge & Iron, or CB&I, and
13 Westinghouse that we thought were impacting the
14 project. We thought it had a potential to
15 impact the schedule.

16 We pointed out the productivity
17 issues and that if those productivity issues
18 could not be resolved, it would have impacted
19 the end date of the project. So when
20 Westinghouse came to us and said they wanted to
21 -- Westinghouse and CB&I came to us and said
22 they wanted to divorce their relationship and
23 move forward in a different direction, we
24 welcomed that once we learned that Fluor would
25 be coming in as the primary contractor. They

1 had significant nuclear experience, and we
2 thought that would help resolve many of the
3 issues associated with the project.

4 SENATOR SCOTT: So Fluor came as
5 a partner of Westinghouse, or they came as a
6 partner with SCE&G on the front end?

7 MR. MARSH: No, the way the
8 contract was originally structured, we had an
9 EPC contract, which is engineer, procure, and
10 construct, with a consortium of Westinghouse
11 and, initially, the Shaw Group, which was
12 acquired by Chicago Bridge & Iron. They were
13 equal partners in that consortium. When Chicago
14 Bridge & Iron exited, Fluor came to work, but
15 not as a consortium partner. They came to work
16 directly for Westinghouse, so they were under
17 direct control in the field of Westinghouse, not
18 SCE&G.

19 SENATOR SCOTT: It would appear
20 that it would have been to SCE&G's best interest
21 for Fluor to have had a direct contract with you
22 since Westinghouse had already gone broke and
23 Westinghouse already demonstrated you always had
24 to keep some kind of incentive to keep them at
25 the table. You want to talk a little bit about

1 what came -- what brought you to conclusion that
2 you had a comfort level with a company that was
3 already gone broke, had already demonstrated a
4 willingness not to work, that still yet another
5 lead contract come who will be taking their
6 direction from Westinghouse?

7 MR. MARSH: Westinghouse had not
8 declared bankruptcy at the time we amended our
9 EPC agreement with Westinghouse. They were
10 performing on the job, not up to the standards
11 that we would have liked to have seen them
12 perform, which is why we were excited about
13 Fluor coming in. Under the engineer, procure,
14 and construction contract we had with
15 Westinghouse, they were responsible for day-to-
16 day construction. For us to have had work Fluor
17 work directly for us, we would have had to
18 eliminate that contract and start from scratch
19 on a new contract because Westinghouse was
20 responsible for directing the contractor.

21 SENATOR SCOTT: How much money
22 had -- because of Westinghouse not being on
23 schedule at that time, how much money had you
24 already lost based on your time and your plan?
25 You talked about where you should be based in

1 the plan for time, and time is money. How much
2 money had you already lost at that time with
3 Westinghouse?

4 MR. MARSH: I don't think it's in
5 terms of money lost because when we went back to
6 the Commission, from our perspective, to
7 increase the estimated cost of the plant, that
8 was the estimated cost that would be spent when
9 construction was completed. We were still doing
10 construction. I believe the cost that we had
11 spent to date had been prudent based on our
12 oversight of the project.

13 We had estimated those costs when
14 we went back to the Commission, I think, in
15 2015. In the update we had right before
16 Westinghouse came to us to change the
17 arrangements with Fluor and Chicago Bridge &
18 Iron, we were at about 6.8 billion. This is
19 SCE&G's share, compared to 6.3 billion where we
20 started. Again, that was a projected cost. We
21 had not spent all of that money at that time.

22 SENATOR SCOTT: Thank you, Mr.
23 Chairman.

24 CHAIRMAN SETZLER: Senator from
25 Horry, and then the Senator from Edgefield.

1 SENATOR RANKIN: I have a very
2 brief question following up on the answer given
3 to Senator from Richland. Lonnie, you -- I
4 recall last week -- or last week -- the last
5 time we were here. It seems like last week,
6 which will be weeks and weeks on end, I'm sure.
7 But I specifically asked you about your and the
8 board's efforts to sell a percentage of your
9 contract here and the load, I'll call it, to
10 Duke. And I asked, I think, was there ever any
11 persuasion not to or, or influence to prevent
12 you to doing that? And I recall that you
13 answered there was no pressure not to sell to
14 lower the percentage of ownership that Santee
15 Cooper had in this deal.

16 Today I heard perhaps different,
17 or maybe not different. I want you to explain
18 to me when you said that SCANA did not want you
19 to sell any percentage until after the units
20 came online. Did I -- is there a disconnect
21 there?

22 MR. CARTER: No, sir. To --
23 first of all, to clarify what I said before, I'm
24 not aware of anybody interfering with our
25 ability to market this and have nondisclosure

1 agreements so people could actually look at the
2 project. There were a number of them. So I'm
3 not aware of anything there.

4 what -- and SCANA can certainly
5 -- they're here, they can speak for themselves,
6 but one of the things that they were concerned
7 about was is we were constantly out there trying
8 to market a piece of this thing, and that -- and
9 in essence -- these are going to be my words,
10 but sort of cast a doubt as to how far we would
11 go, maybe, because we didn't need as much as
12 they did. They weren't -- they needed the
13 capacity; we didn't. We didn't need that much,
14 so that sort of put some pressure on the
15 project, at least in some people's minds, in the
16 financial community.

17 so what they were asking us to do
18 was, they would take an additional piece and
19 just stand down from that effort until after we
20 completed the project, not that they would --
21 you know, I think if somebody had come along and
22 was serious and said, Hey, I'm fairly -- they
23 can speak for themselves, but I would have gone
24 to them and asked them if they would allow us to
25 talk to this person or this company and see if

1 it would happen.

2 SENATOR RANKIN: Well, and --

3 MR. CARTER: So we weren't out
4 actively marketing, but the --

5 SENATOR RANKIN: Don't pursue a
6 sale until after the units come online is what
7 you said today.

8 MR. CARTER: Yes, sir.

9 SENATOR RANKIN: So Mr. Marsh,
10 there's a narrative out there that effectively
11 says that -- and, I think, given credence today,
12 and I'm not trying to foretell the answer here,
13 but that specifically says that SCANA not just
14 suggested, Don't pursue a sale, but actively
15 prohibited Santee Cooper's efforts to market.

16 Again, you've heard him just
17 testify as to one thing. Was there any
18 undertone, overtone, explicit language to the
19 board and perhaps -- I don't know what the board
20 knew. We've just heard from Mr. Carter, but is
21 that narrative true that SCANA did not want any
22 other buyers, and specifically, as I asked a few
23 weeks ago when you weren't here -- welcome back;
24 I'm glad you're healthy -- Duke and Duke's
25 effort to buy.

1 MR. MARSH: Yeah, and I'm going
2 to go back to when we started having
3 conversations with Duke because Lonnie and his
4 team came to us and said they'd like to approach
5 Duke Energy, to consider having them come join
6 the project, and wanted to know if we would
7 support them in that effort. We indicated we
8 would. I believe we actually signed an
9 agreement that laid out some terms and
10 conditions of how we would go forward with that.

11 We made information available on
12 the site for Duke to come in and do their due
13 diligence. I did know when they came in, they
14 never expressed initially what percentage they
15 were looking for that I recall, but as we got
16 through those discussions, they indicated they
17 would probably only be interested in a 5 to 10
18 percent piece. It certainly wasn't 20 or 25
19 percent.

20 So as they -- as we began to
21 negotiate with them along with Santee -- because
22 it did require our approval. In the agreement,
23 if they brought a partner in, we would have to
24 agree to have that partner join the project.
25 Duke's a qualified nuclear operator, nuclear

1 constructor, one of our neighbors, serves in
2 South Carolina also, and we would not have had a
3 problem with them coming into the project.

4 But the difficulty was, they
5 wanted to come into terms that were not
6 consistent with the terms that we enjoyed and
7 Santee enjoyed, from a risk perspective on the
8 project, and we didn't that would be
9 appropriate. I talked to Lynn Good from Duke
10 Energy. I believe it was over the Christmas
11 holidays of '14, and she said they had looked
12 real hard. She described for me some of the
13 challenges they had from their side. I
14 described our challenges were primarily having a
15 third partner that wouldn't be in the boat with
16 us. They would be in a better boat with less
17 risk than we had, and I didn't think that was
18 fair to our customers or the customers of Santee
19 Cooper. So --

20 SENATOR RANKIN: And both you and
21 Mr. Carter and/or the executive management team
22 of Santee Cooper made that decision to not grant
23 the different terms that Duke was seeking at
24 that time?

25 MR. MARSH: Well, from our

1 perspective, we had made it clear that we were
2 not going to accept the terms that they were
3 offering, and then I got a call from Lonnie, I
4 think it was the night before your board was
5 going to take it up, indicating that they knew I
6 was going to say no, meaning me representing
7 SCANA, but that their board was going to vote
8 yes.

9 SENATOR RANKIN: So there was a
10 disagreement.

11 MR. MARSH: I would have to say
12 --

13 SENATOR RANKIN: Or -- and again,
14 I'm not --

15 MR. MARSH: Yeah.

16 SENATOR RANKIN: They wanted to
17 go forward, but SCANA said no?

18 MR. MARSH: I believe they voted
19 to go forward, based on the terms that were
20 presented.

21 SENATOR RANKIN: The time line of
22 that? And Mr. Chairman, I'll yield back after
23 this.

24 MR. MARSH: Yeah. I don't recall
25 the specific dates. I'd have to go back and

1 Look at my notes, but I think it was early in
2 2015 because I recall we had the discussions
3 throughout '14, and I had conversations with
4 Lynn Good, the CEO of Duke Energy, over the
5 Christmas holidays. We exchanged a couple of
6 phone calls, and it was clear they had issues
7 that we were not comfortable with because they
8 weren't fair to all the parties in the contract,
9 and we needed an equal partner in terms of the
10 risk associated with the project. Not
11 necessarily an equal share of ownership, but
12 they had to accept their share of the risk with
13 the project, and they -- for their reasons, and
14 I don't disagree with their reasons, but they
15 could not get to where we were, so we were not
16 comfortable saying yes.

17 SENATOR RANKIN: But y'all were
18 the majority partner, Santee Cooper was the
19 minority partner --

20 MR. MARSH: Right.

21 SENATOR RANKIN: -- and Duke was
22 coming in on perhaps different terms, and we can
23 develop those later, but SCANA said no; Santee
24 Cooper said yes.

25 MR. MARSH: My memory is that the

1 Santee board voted yes, knowing that I was going
2 to say no.

3 SENATOR RANKIN: And you and
4 SCANA trumped Santee Cooper's efforts to go
5 forward.

6 MR. MARSH: Well, it was in the
7 contract that we had the right to approve a
8 partner coming in, and we didn't disapprove of
9 the partner. We disapproved of the terms and
10 conditions because they were not fair to all the
11 parties.

12 SENATOR RANKIN: Okay. Mr.
13 Chairman, real quick. Is, is there agreement
14 with that, Lonnie, Leighton, and I'm -- again,
15 that was a narrow focus. If you'll speak to
16 that, then I'm going to yield back.

17 MR. LORD: Senator, we can check
18 the minutes, but I don't recall our board
19 voting, but I do recall our board pushed
20 management hard to sell an interest of up to 20
21 percent. And so I believe Mr. Marsh's narrative
22 that the board was pushing to go along with it
23 and get a partner in was true. I'm just not
24 sure if we actually voted on it.

25 MR. MARSH: And I can't --

1 MR. LORD: There was nothing to
2 vote on.

3 MR. MARSH: And I can't speak for
4 his board. I wasn't trying to speak for his --

5 MR. LORD: Right. I know that,
6 exactly. I don't think there was an agreement
7 to vote on, but we pushed management to go back
8 to the table and try to get something.

9 SENATOR RANKIN: And that would
10 have been the corporate lead, not just the
11 executive management committee of your board.
12 That would have been the entire Santee Cooper
13 board would have been pushing that, Leighton?

14 MR. LORD: Correct.

15 SENATOR RANKIN: All right, and
16 so Lonnie, again, there's a disconnect again and
17 --

18 MR. CARTER: Yes, sir, and --

19 SENATOR RANKIN: -- still exists,
20 and so the narrative, is it true, or is it not
21 true? You are a minority partner. Your
22 committee, your board is pushing you to
23 aggressively try to lessen the risk, lessen the
24 responsibility. And I'm hearing today that the
25 majority partner says no, has a conversation

1 with you saying no.

2 Duke, and we can talk to Duke
3 later or any other would-be buyer of an interest
4 in this. Did executive management team, you and
5 your -- again, you've got a subcommittee of the
6 board that was involved in this, correct?

7 MR. CARTER: No, sir. It was
8 full board that was involved in the sale --

9 SENATOR RANKIN: Okay.

10 MR. CARTER: -- and really, the
11 committee may have been meeting, but the -- all
12 of the board members were generally there and
13 involved.

14 SENATOR RANKIN: All right, so
15 was Duke, or ultimately you -- was Santee Cooper
16 thwarted in its effort to lessen its
17 responsibility, lessen the debt, by SCANA or by
18 anybody else?

19 MR. CARTER: My answer to that
20 would be no, and let me give the rest of what,
21 at least from our -- remember, this was a
22 negotiation, and it went over a very long period
23 of time where CEOs were changing. This -- at --
24 may be more than you want to know, but when we
25 initially started, both Progress -- which, at

1 that time had Bill Johnson as its CEO. It still
2 existed. They hadn't merged yet. And Duke --
3 and it had Jim Rogers there. And both expressed
4 an interest in buying 10 percent.

5 It would have been great if -- it
6 would have been wonderful. We would have had
7 the two in-state partners. We would have gotten
8 down to an amount that we were much more
9 comfortable with, and we would have had their
10 involvement.

11 Early on in that process, before
12 the merger took place, Bill Johnson told me that
13 he didn't see a way that they could do it. He
14 discussed it, they'd looked at it, they'd done
15 their due diligence, and they fairly quickly
16 came to the conclusion that they could not get
17 it into rate base in North Carolina the same way
18 that they could here. That's what they were
19 telling me, and so Bill Johnson said, we're done
20 negotiating because I can't get it into rate
21 base; doesn't have anything to do with anything
22 else.

23 Jim Rogers, the merger takes
24 place, and then he wants to talk about all 20
25 percent at one point. Ultimately, when he left,

1 Lynn Good got back down to around a 5 or 10
2 percent and had -- and they looked at it fairly
3 hard. This issue came up that Mr. Marsh was
4 talking about -- came up, I want to say -- I do
5 remember it was around the Christmas holiday
6 time frame. It was during the time of the year.

7 SENATOR RANKIN: '14?

8 MR. CARTER: Of -- no, sir. I
9 believe this would have been -- I can't
10 remember, to tell you the truth. Either '13 or
11 '14. And -- but around that time frame.

12 SENATOR RANKIN: Not '15?

13 MR. CARTER: Not '15, no, sir.
14 And anyway, this was an issue that was in front
15 -- they -- Duke came back to us and made an
16 offer to come in, and the biggest -- the thing
17 that I remember that stuck out the most in my
18 mind in their offer was is they didn't want any
19 construction risk.

20 SENATOR RANKIN: Well, that --
21 we'll get into all that later, in terms of their
22 terms then versus now. And I'm going to be real
23 curious, Mr. Marsh, to see how those terms are
24 different now and if, in fact, whether what they
25 were proposing then would be a hell of a lot

1 better for the -- South Carolina and the
2 ratepayers. Again, I'm not here for Duke, I'm
3 not here for SCANA, I'm not here for Santee
4 Cooper, but wonder whether those terms might
5 have been prudent after all. That's a
6 rhetorical question. I'm not going to ask you
7 that, but I do want to come back to it.

8 MR. CARTER: Can I --

9 SENATOR RANKIN: But real quick,
10 Lonnie, and you use the terms, SCANA said don't
11 pursue a sale until after the units come on
12 line. Now, at -- so this is '14. This
13 conversation, this Christmas conversation occurs
14 between you and Marsh; again, generally time
15 frame. Progress is out. Jim Rogers, his
16 merger's all done. They can't get 20. They
17 want 10?

18 MR. CARTER: And then -- so I'm
19 now dealing with Lynn Good, Ms. Good --

20 SENATOR RANKIN: Right.

21 MR. CARTER: -- at Duke, and so
22 we got back to her on those terms. That did --
23 that was not -- based on what she was telling
24 me, that was not -- and her folks were telling
25 me that was not a deal-buster at that point

1 because there were -- it was a negotiation.
2 There were a number of issues on the table, and
3 the same issue, ultimately, some time -- I know
4 it was in the wintertime.

5 I remember going to Charlotte.
6 She asked me to come see her, and I went to see
7 her, and basically she told me the same thing
8 that Bill Johnson had told me earlier, a year or
9 two year earlier, that she didn't believe she
10 could get it into rate base into North Carolina,
11 and she wouldn't take that risk, and they wanted
12 to end the negotiations. So while this issue
13 was there, I don't believe -- there was no
14 indication to me from anybody at Duke that that
15 was a deal-breaker.

16 SENATOR RANKIN: But you, in
17 January of '14, agree separately to sell 5
18 percent back to SCANA once the units were
19 completed.

20 MR. CARTER: Yes, sir, and part
21 of that arrangement was the -- to do what I
22 would call stop actively marketing it.

23 SENATOR RANKIN: So could it have
24 been that this effort with Duke -- and the
25 merger is set in stone. We know when that

1 occurred; I don't, but we can determine that.
2 Could that have been December of '13 that you
3 were told by SCANA not to pursue a sale until
4 after the units came online?

5 MR. CARTER: It was part of their
6 agreement. It's actually in the documents. I
7 believe it'll say it in the documents that it --
8 when they purchased it, that was part of the
9 arrangement.

10 SENATOR RANKIN: Okay. That's
11 all I have.

12 CHAIRMAN SETZLER: Okay. Senator
13 from Edgefield.

14 CHAIRMAN MASSEY: Thank you, Mr.
15 Chairman. I want to talk a little bit about
16 Bechtel, but not in the -- I heard that you had
17 to answer two or three questions about it the
18 other day, and I don't really want to get into
19 the weeds on it too much. Maybe somebody else
20 does; I'm not going to get in the weeds on it.

21 But just quickly, you know, from
22 my review of the Bechtel report, it does seem to
23 confirm many of the criticisms that we heard
24 from Mr. Addison and Mr. Byrne and even from
25 you, Mr. Carter, about Westinghouse's

1 performance. And just as a summary from what I
2 got from the Bechtel report, there were problems
3 with the engineering and design. You talked
4 about that earlier, Mr. Marsh, but that's
5 Westinghouse, right?

6 MR. MARSH: That's correct.

7 CHAIRMAN MASSEY: That's right.
8 Those problems with the engineering and the
9 design caused problems with the procurement
10 because getting the delayed designs caused
11 delays in getting the right materials to the
12 site. Those problems obviously contributed to
13 delays in construction. Is that all -- do you
14 agree with all that?

15 MR. MARSH: I think those are
16 related, yes.

17 CHAIRMAN MASSEY: The Bechtel
18 report also pointed out there were problems with
19 the work force out there on the site. It said
20 there were not enough people out there, and the
21 ones who were out there were standing around too
22 much because they didn't have -- the -- they
23 didn't have the materials in order to do the
24 work or else they weren't properly trained to do
25 the work that needed to be done at the time. So

1 because of all those things and probably lots of
2 others, the Bechtel Report points out that
3 Westinghouse really needed to come up with a
4 realistic project schedule; do you agree with
5 that?

6 MR. MARSH: We had asked them to
7 do that when we knew Fluor was coming onboard.
8 We had asked them to do that.

9 CHAIRMAN MASSEY: Right, and we
10 talked about that a little bit at our last
11 meeting, and I know that's been the subject of
12 lots of other conversations, but, I mean, the
13 project schedule was a problem from nearly the
14 beginning; is that fair?

15 MR. MARSH: I don't -- wouldn't
16 characterize it that way because we had a
17 schedule from the day we started the project.
18 There were other schedules.

19 CHAIRMAN MASSEY: You had a
20 schedule, but they never complied with any of
21 them.

22 MR. MARSH: We had an active
23 schedule. If you hadn't had a schedule, you
24 wouldn't have known where there was
25 noncompliance or where there were issues coming

1 up.

2 CHAIRMAN MASSEY: And I -- well,
3 that's true, right, okay, so you had a schedule.
4 It had different dates in there. They just
5 never complied with any of them.

6 MR. MARSH: I don't think we can
7 say they never complied with any of them. I
8 mean, they had issues on the schedule, and I
9 meant to do this at the beginning, but y'all --
10 you started. I've actually brought some of my
11 nuclear construction team with me here today and
12 will be glad to have them testify more in detail
13 about the schedules and how those interacted
14 with the work that was being done, if you'd like
15 to do that.

16 CHAIRMAN MASSEY: Okay, and we
17 may need to get -- so I appreciate you doing
18 that. I appreciate you having all the resources
19 available. I mean, my -- and the reason that I
20 phrased it that way was -- and maybe I
21 misunderstood from the last hearing that we had.
22 I mean, I had understood -- I guess this would
23 have been from Mr. Byrne and Mr. Addison that,
24 yeah, there were schedules. You had schedules,
25 but they really were never followed.

1 They seemed -- Westinghouse
2 seemed, for whatever reason, and maybe it was
3 for the reasons that we just talked about, but
4 they seemed never really to be complicit with
5 any of the deadlines that were imposed in the
6 schedule. Mr. Byrne, am I -- did I remember
7 that wrong?

8 MR. BYRNE: Well, I think the way
9 that I would characterize it is, they did have
10 schedules. We actually had multiple schedules,
11 right, so we had a schedule when we signed the
12 contract. We had a schedule that they had given
13 us that was supposed to be an integrated
14 schedule at the time we went to the hearings in
15 late 2008 with the Public Service Commission.
16 We said that that schedule didn't integrate some
17 activities into it accurately enough, so we sent
18 them back and said, Go and try again.

19 So they gave us another schedule,
20 I think it was April of 2009, which was an
21 acceptable schedule. Separate from that, we
22 gave the Public Service Commission a list of
23 milestones because they -- the Commission told
24 us that the schedules that were included with
25 the contract were too detailed for them to try

1 to follow the progress of the project. So what
2 they asked for was a set of kind of big-picture
3 milestones. So we gave them, I think it was
4 originally 123. It ended up being 146, I think,
5 milestones. And early on, the consortium, which
6 at the time was Westinghouse and the Shaw Group
7 --

8 CHAIRMAN MASSEY: Right.

9 MR. BYRNE: -- they were hitting
10 a lot of those milestones. What --

11 CHAIRMAN MASSEY: What's "early
12 on"?

13 MR. BYRNE: Early on would have
14 been in the 2009 time frame when we got -- we
15 got the approval from Public Service Commission,
16 I think it was February of 2009.

17 CHAIRMAN MASSEY: Okay.

18 MR. BYRNE: So early on, you
19 know, site clearing and those kind of things,
20 they were hitting those milestones, and some of
21 the licensing milestones, we were hitting. The
22 first delays started to show up really with the
23 module facilities, and specifically, a module
24 facility in Lake Charles, Louisiana, that was
25 actually built specifically to build these

1 modules for these projects.

2 CHAIRMAN MASSEY: At our last
3 hearing, Mr. Carter told us that they knew of
4 problems with the schedule as early as 2013
5 because the modules weren't coming in on time.
6 And Mr. Byrne, I think you told us at our last
7 meeting that the problems with Westinghouse,
8 whether that be complying with the schedule or
9 the other problems that we've talked about,
10 which probably most likely contributed to the
11 schedule delays, but that you knew of problems
12 as early as two thousand, I think, '11, I think,
13 because at that -- because as early as 2011, you
14 started -- and "you," I mean you collectively,
15 okay, the owners -- but the owners started
16 withholding payments for some of the
17 Westinghouse invoices; isn't that right?

18 MR. BYRNE: Yeah. I think the --
19 what we did first was, we returned invoices as
20 deficient. So they would say, we accomplished
21 this task. We'd say, No, that was deficient.

22 CHAIRMAN MASSEY: Right.

23 MR. BYRNE: So we returned it
24 without payment. A little later on, probably in
25 the 2014 time frame, we did start to actually

1 withhold payments, not just returning invoices
2 as deficient, but we started to withhold
3 payments.

4 CHAIRMAN MASSEY: So if you --
5 all right. Well, I mean, that's a fairly
6 extreme step, isn't it, I mean, not paying the
7 bill when they come in?

8 MR. BYRNE: Yeah, we looked at
9 what remedies we would have under the contract,
10 and, you know, one of those was to withhold
11 payment. So we thought we were within our
12 rights to withhold payments, but it was all
13 intended to get their attention, yes.

14 CHAIRMAN MASSEY: I understand.
15 Well, I understand that. I mean, and my -- I
16 suspect that it's probably safe to assume that
17 at the point where you weren't paying their
18 invoices, that the performance had been
19 deficient for a while because that's not
20 typically the first step right out of the gate,
21 not paying the invoice, right?

22 MR. BYRNE: That's correct.

23 CHAIRMAN MASSEY: All right. But
24 I think we -- it's safe to assume, since the
25 owners were not paying Westinghouse, at least

1 some of the invoices -- at least were
2 withholding some payments as early as 2011,
3 that's probably a pretty good starting point, at
4 least from my perspective.

5 You talked some about the
6 remedies available under the contract at that
7 point. Did -- let's start at 2001, all right?
8 In the 2001 time frame, did y'all ever move to
9 terminate the contract?

10 MR. BYRNE: No, we never moved to
11 terminate the contract. We did not want to do a
12 termination. We didn't have reasons to
13 terminate for cause at that time, and if you
14 terminate for our convenience, or without cause,
15 then we would have owed them fees and profit on
16 a project that, you know, wasn't going to be
17 constructed, so we did not look at termination
18 at that point in time.

19 CHAIRMAN MASSEY: Okay.

20 MR. BYRNE: And had continued to
21 work, you know -- in addition to, you know,
22 threats and letters and withholding payments, we
23 continued to try to work with the contractor on
24 a day-to-day basis to try to, you know, forge
25 some improvements in their performance.

1 CHAIRMAN MASSEY: So you were
2 giving them written notification of their
3 deficiencies during that time period?

4 MR. BYRNE: We were.

5 CHAIRMAN MASSEY: All right. Did
6 they -- did Westinghouse or the consortium's
7 performance improve in 2012?

8 MR. BYRNE: Their performance
9 would improve in specific areas. So go back to
10 the 2011 and '12 frame. Really, it was the
11 modules that were going to be the holdup. The
12 work at the site actually was going pretty well
13 at that point in time. We did have a delay in
14 receiving our license from the Nuclear
15 Regulatory Commission. You know, we were
16 supposed to have received it, I think, in July
17 of 2011. We didn't end up receiving it until
18 March of 2012, so there was a delay in receipt
19 of that license. Some of that was tied up in
20 Fukushima-related issues.

21 CHAIRMAN MASSEY: All right,
22 well, when you say the work at the site was
23 going pretty well, what do you mean --

24 MR. BYRNE: Well, I --

25 CHAIRMAN MASSEY: -- because you

1 were withholding some payments for some invoices
2 because of some deficient performance.

3 MR. BYRNE: So they --

4 CHAIRMAN MASSEY: So what, what
5 was going well?

6 MR. BYRNE: The site clearing,
7 the excavation work, the mapping of the site.

8 CHAIRMAN MASSEY: It's hard to
9 screw that up, isn't it?

10 MR. BYRNE: Pardon?

11 CHAIRMAN MASSEY: It's hard to
12 screw up site clearing, isn't it?

13 MR. BYRNE: Well, I will tell you
14 that the project in -- at Vogtle ended up in a
15 lawsuit over excavation and clearing and fill
16 work, so I would say that it is possible to
17 screw it up. But it -- the work up to that
18 point in time at the site was going well.

19 CHAIRMAN MASSEY: Did you
20 continue to have problems with deficient
21 performance in 2012?

22 MR. BYRNE: We did.

23 CHAIRMAN MASSEY: Did you
24 continue to have problems with deficient
25 performance in 2013?

1 MR. BYRNE: We did. We were
2 identifying problems and issues along the way.
3 Now, remember, we also had a change in the
4 construction contractor at the time because Shaw
5 was acquired by Chicago Bridge & Iron. So that
6 brought in leadership changes, management
7 changes even at the site, so not just the, you
8 know, at the CEO level, but also down at the
9 site level. So we went through a change there.

10 So the changes that we went
11 through, we did want to give the new contractors
12 an opportunity to make the improvements that
13 they saw, and when Chicago Bridge & Iron first
14 came into the project, I think it was in early
15 2013, they came to our corporate campus, met
16 with us, and had a lot of very positive things
17 to say about understanding the issues that they
18 had and the corrections they were going to do
19 specifically with modules.

20 CHAIRMAN MASSEY: Everybody made
21 a good presentation in the beginning, didn't
22 they?

23 MR. BYRNE: They did.

24 CHAIRMAN MASSEY: Yeah. Did --
25 well, once CB&I came on, did the performance

1 improve in 2014?

2 MR. BYRNE: The performance at
3 the module shops did not improve. Almost
4 immediately, they got from the Nuclear
5 Regulatory Commission what was called a Safety-
6 Conscious Work Environment letter indicating
7 they had a chilling work environment at the Lake
8 Charles facility.

9 Now, that, you know, to be fair
10 to CB&I, I would say that was a legacy from the
11 Shaw days when Shaw owned the facility. But
12 once the Nuclear Regulatory Commission gives you
13 one of those kinds of, of letters, it's a --
14 it's -- it takes a lot of effort to resolve
15 those issues and satisfy the regulator that you
16 no longer have a chilled work environment.

17 CHAIRMAN MASSEY: Well, and were
18 you continuing -- from the owner's perspective
19 out there, were you continuing to give them
20 written notification of deficiencies?

21 MR. BYRNE: We were, and we were
22 also pushing them to diversify the supply chain,
23 specifically that module facility.

24 CHAIRMAN MASSEY: Right.

25 MR. BYRNE: Which Chicago Bridge

1 & Iron did eventually do.

2 CHAIRMAN MASSEY: Did -- well, we
3 talked about 2014. I mean, were you still
4 having problems with deficient performance in
5 2015?

6 MR. BYRNE: Yeah, I would say
7 that by 2015, the contractors had largely worked
8 out the supply chain issues with modules. Now,
9 the -- we'd moved a lot of things out of the
10 Lake Charles facility and were ramping up other
11 facilities at other places, and that work seemed
12 to be going very well, and as it turns out,
13 they've, they've supplied.

14 So the major structural modules,
15 the things that everything else is kind of
16 pinned to, those are all -- have all been
17 furnished to us now. So the Lake Charles
18 facility did make improvements, but we also, at
19 the same time, we descope that facility. We
20 moved work from that facility to other places.
21 We also took work from that facility and said,
22 send it to the site, and we'll finish it here.
23 And so we did that -- those activities probably
24 in the, you know, probably '14, '15, and even
25 into '16 time frame.

1 CHAIRMAN MASSEY: And that's an
2 important point because one of the things that
3 the Bechtel Report pointed out, of course, is
4 that a -- especially with the engineering issues
5 and a lot of things would have -- a lot of the
6 designs would have to be changed, and they
7 weren't able to do them on-site. They had to be
8 shipped off all over the world, definitely
9 differently states, but in some -- all over the
10 place in order to fix different things. I mean,
11 I understand that the supply chain was a
12 significant problem, but the problems out there
13 were much greater than just the supply chain,
14 weren't they?

15 MR. BYRNE: Yeah, we did have
16 issues with -- you were asking how I would
17 characterize the issues we had back in that 2011
18 --

19 CHAIRMAN MASSEY: Right.

20 MR. BYRNE: -- or 2012 time
21 frame, and that largely was supply chain-related
22 issues, but --

23 CHAIRMAN MASSEY: And what I was
24 getting at specifically is that the, I mean, the
25 Bechtel Report pointed out a lot of engineering,

1 procurement, and construction problems, but
2 those problems didn't just come up in 2015. I
3 mean, those were problems that you were having
4 from -- at least from 2011 on.

5 MR. BYRNE: We had been
6 identifying issues and problems that we wanted
7 to work on all along, and just to be clear, when
8 people say that the design made things
9 nonconstructible and they had to ship things to
10 other places, that's paperwork they're shipping
11 other places, not the actual components that the
12 repairs are going to be made on. They stayed in
13 those facilities or we received them at our
14 site.

15 CHAIRMAN MASSEY: well, the
16 component -- I mean, that's part of the
17 procurement problem, though, right? I mean,
18 they weren't able to get the components or at
19 least everything that -- all the materials that
20 they needed. I mean, that was one of the --
21 that was contributing to the procurement delays
22 that was reflected in that report; isn't that
23 (INDISTINCT)?

24 MR. BYRNE: Yeah, I don't really
25 think it was necessarily a -- an equipment or a

1 commodity issue with that supply chain. So if
2 they -- if the design changed, then it may be
3 that they purchased rebar or embeds or specific
4 material to construct, and now Westinghouse
5 perhaps changed the material of construction, so
6 they would have to scrap what they had purchased
7 originally and then order something new.

8 So it wasn't that these
9 components couldn't be purchased or couldn't be
10 delivered, but oftentimes, the design would
11 change, and then the component couldn't be
12 constructed with the materials that they had, so
13 they had to go out and get new materials.

14 CHAIRMAN MASSEY: And, and for,
15 for whatever the reason was, the construction
16 was being delayed.

17 MR. BYRNE: Correct.

18 CHAIRMAN MASSEY: Because of
19 those things. Did Westinghouse or the
20 consortium's deficient performance in all the
21 categories that we've talked about, did that
22 deficient performance result in a delay in the
23 guaranteed substantial completion dates?

24 MR. BYRNE: It did.

25 CHAIRMAN MASSEY: All right. Did

1 that delay exceed 180 days?

2 MR. BYRNE: If you look at the
3 total of the delays, we changed the guaranteed
4 substantial completion dates through negotiation
5 processes a couple of times.

6 CHAIRMAN MASSEY: Right.

7 MR. BYRNE: So, yes, the -- in
8 the end, the guaranteed substantial completion
9 date would have exceed 180 days from the
10 original date.

11 CHAIRMAN MASSEY: Well, then, I'm
12 curious why you would not have -- you were
13 documenting these things. You were doing -- you
14 were notifying them in writing. The guaranteed
15 substantial completion date was moving on you,
16 both of which, as you know -- and you know where
17 I'm going, right? Both of those are reasons to
18 terminate for cause. I'm wondering why -- and,
19 and from 2011, 2012, 2013, 2014, 2015, you kept
20 having problems. You kept notifying them of
21 things. The delays kept getting longer.
22 why would you not move to terminate that
23 contract?

24 MR. BYRNE: Well, I don't know
25 that we had grounds to terminate for cause.

1 Now, you can always terminate for owner's
2 convenience, but I don't think --

3 CHAIRMAN MASSEY: Well, you were
4 having these problems that were affecting the
5 contract. You were notifying of them --
6 notifying them of them in writing. I mean,
7 that's one of the grounds for termination for
8 cause. You had the extensions of the delays --

9 MR. BYRNE: So two points to
10 that. One is, we continued to need the power.
11 We continued to need the plant to be built. So
12 our desire was to complete the construction. It
13 wasn't to terminate. And, you know,
14 Westinghouse is already in lawsuits with, I
15 think, a customer in Florida over contract
16 issues, so it would more than likely --I'm
17 reasonably certain that it would have led to
18 litigation that would have, again, bogged us
19 down and slowed things down.

20 And once you terminate, it would
21 probably take you a year to start up again, and
22 we didn't really have the option to change the
23 contractors. Westinghouse was going to be the
24 supplier or the designer of the plant
25 irregardless unless we changed the license.

1 CHAIRMAN MASSEY: But the
2 contract allowed -- I mean, if you terminated
3 the contract for cause, there -- the contract
4 allowed for you to retain the intellectual
5 property so that you can get the completion
6 done, right? I mean, in fact, there's a
7 specific provision in there that says, we want
8 to protect your right to get the project done if
9 you terminate it.

10 MR. BYRNE: Yeah, well, just us
11 terminating for cause doesn't get us the
12 intellectual property. It would have to be an
13 event where Westinghouse was not available to
14 finish the projects. That's why we went after
15 the intellectual property clause back in 2008,
16 is that if they were not physically available to
17 complete the project -- they went out of
18 business -- we wanted to have the opportunity,
19 then, to bring in somebody else.

20 But they view the intellectual
21 property as their bread and butter, and the
22 continued and continue today to want to build
23 AP1000s around the world, and so they were not
24 going to -- they would not allow us to bring in
25 another contractor using Westinghouse

1 intellectual property while westinghouse was
2 still solvent.

3 CHAIRMAN MASSEY: "To enable
4 owner to exercise its rights upon termination:
5 Each of westinghouse and Stone and Webster has
6 granted owner an intellectual property license
7 on the date hereof," and it sets out the
8 different exhibits with the licenses on them.
9 And the exercise of your rights would be the
10 completion of the project. I mean, that -- you,
11 you were able to terminate the contract if you
12 had grounds under -- for cause and still -- and
13 retain the intellectual property.

14 The idea, and surely, surely the
15 lawyers that you had negotiating this thing in
16 the beginning -- I mean, everybody knew that the
17 plan was to complete the project, right? I
18 mean, that's the plan, right? I mean, you were
19 not going to negotiate something that if you had
20 to cancel because they were just screwing up
21 that you weren't going to be able to complete
22 the project. And that's what this is -- set out
23 to do, isn't it?

24 MR. BYRNE: Yeah, and, you know,
25 we were always looking at whether or not it

1 would make sense to try to terminate the
2 contract, and we were prepping for the
3 possibility of a lawsuit with the consortium,
4 including Westinghouse, and that's why we
5 commissioned the Bechtel Report. But it --
6 cancellation would have been very difficult for
7 us to restart in a timely fashion, and just us
8 terminating for cause doesn't get us access to
9 the intellectual property.

10 So, you know, Westinghouse would
11 fight you on that. There were further
12 provisions in the agreement that outlined what
13 it would take for an independent third party to
14 turn over the intellectual property to us.

15 CHAIRMAN MASSEY: Right, and I
16 understand that. I mean, it was, it was kept in
17 escrow, right, which is where it is now, right?

18 MR. BYRNE: That's correct.

19 CHAIRMAN MASSEY: Yeah. Well,
20 all of those deficient performance reasons that
21 -- was that a -- that was a significant factor
22 leading to the renegotiation of the contract in
23 2015, wasn't it?

24 MR. BYRNE: It was.

25 CHAIRMAN MASSEY: Is that right?

1 MR. BYRNE: We had identified it,
2 and we would have preferred to renegotiate the
3 contract earlier. We think it served us pretty
4 well, but as you learn things, there were things
5 you would want to change. However, there were
6 things that the consortium or Westinghouse would
7 like to change also, so there were a lot of
8 provisions of the contract that they didn't
9 like, and so when CB&I came to us and said, we
10 would like to exit in mid-2015, that was our
11 opportunity to negotiate. And that -- you know,
12 the only -- that was the leverage that we had
13 with Westinghouse because otherwise, you know,
14 why would they want to increase liquidated
15 damages? You know, why would they want to
16 change the language to restrict their
17 opportunity to do a change order? So --

18 CHAIRMAN MASSEY: Because they
19 wanted you to pay them for those outstanding
20 invoices that you were withholding.

21 MR. BYRNE: That was a part of
22 it. That was a part of it.

23 CHAIRMAN MASSEY: That was a big
24 thing they got out of that contract, right?

25 MR. BYRNE: I think they wanted

1 CB&I --

2 CHAIRMAN MASSEY: They got them
3 out.

4 MR. BYRNE: -- out of the
5 construction project more than anything else.

6 CHAIRMAN MASSEY: But they also
7 got guarantees that you were going to pay those
8 invoices that you'd been withholding, and they
9 got guarantees that they were going to get
10 monthly payments over a period of time, and they
11 were getting -- I mean, there was a benefit to
12 them as well.

13 MR. BYRNE: There was a benefit
14 to them. I think that clearly, in their minds,
15 the biggest benefit was seeing CB&I exit so they
16 didn't have that consortium arrangement any
17 longer. And we also negotiate a milestone
18 payment schedule. So the fixed monthly payments
19 was only going to last for a period of time
20 until we got the milestone payment schedule
21 sorted out.

22 CHAIRMAN MASSEY: Okay. All
23 right. So, so that contract was finalized on
24 October 27th of '15; sometime in October 2015?

25 MR. BYRNE: That's correct.

1 CHAIRMAN MASSEY: All right.
2 when did y'all start negotiating that
3 renegotiated contract?

4 MR. BYRNE: It was in September
5 of 2015.

6 CHAIRMAN MASSEY: All right. So
7 then the -- that -- the basis of the contract
8 had nothing at all to do with Bechtel?

9 MR. BYRNE: The basis for the
10 contract didn't have anything to do directly
11 with Bechtel. The issues that Bechtel
12 identified that we were well aware of, we used
13 that in our thinking about negotiating the
14 contract. So the issues were the same.

15 CHAIRMAN MASSEY: Bechtel hadn't
16 even briefed you on the report yet.

17 MR. BYRNE: That's correct, but
18 we were aware of the Bechtel issues before the
19 Bechtel Report.

20 CHAIRMAN MASSEY: Right. You
21 were aware that you were having problems with
22 the consortium, with the deficient performance
23 issues that we talked about. You knew about
24 those because those were -- had been going on
25 for years.

1 MR. BYRNE: Right.

2 CHAIRMAN MASSEY: The Bechtel
3 Report confirms them -- many of those things,
4 but you knew about those things.

5 MR. BYRNE: That's right.

6 CHAIRMAN MASSEY: Right. So the
7 Bechtel Report was not a basis for the
8 renegotiated contract.

9 MR. BYRNE: The report itself was
10 not a basis for the renegotiated contract.

11 CHAIRMAN MASSEY: All right. The
12 -- tell me again while y'all -- why did you
13 engage Bechtel in order to do that report?

14 MR. BYRNE: Why did we engage
15 Bechtel?

16 CHAIRMAN MASSEY: Yeah.

17 MR. BYRNE: It was --

18 CHAIRMAN MASSEY: Why get the --

19 MR. BYRNE: -- it was in
20 anticipation of litigation with the consortium
21 partners.

22 CHAIRMAN MASSEY: Litigation
23 about what? What would the litigation have
24 been?

25 MR. BYRNE: Well, it was really

1 two things. It was, could they have a claim
2 against us for these payments that we were
3 withholding, and could we have a defense for
4 that, and then if we wanted to pursue something
5 for them being deficient, then -- and certainly
6 if there was a termination, there were going to
7 be lawsuits. So we wanted to make sure that our
8 positions were defensible. So that, that was
9 the basis behind which we went with the Bechtel
10 Report.

11 CHAIRMAN MASSEY: And the report,
12 the official -- the final version of the report,
13 the written report, was released, I think it was
14 in February of '16; is that right?

15 MR. BYRNE: That sounds right.

16 CHAIRMAN MASSEY: All right, and
17 so that report was not issued in anticipation of
18 litigation, was it?

19 MR. BYRNE: The report was issued
20 for that purpose.

21 CHAIRMAN MASSEY: Well, you
22 renegotiated the contract in October of '15.

23 MR. BYRNE: Correct.

24 CHAIRMAN MASSEY: Right? One of
25 the interesting things about that contract is,

1 you completely took litigation off the table.

2 MR. BYRNE: Until the project was
3 over with.

4 CHAIRMAN MASSEY: Right. Yeah,
5 but I mean, you, you were --

6 MR. BYRNE: You -- we could sue
7 each other when the project ended. We only took
8 litigation off the table for the period of
9 construction.

10 CHAIRMAN MASSEY: If you pursued
11 the dispute resolution procedures in the interim
12 under that renegotiated contract, right?

13 MR. BYRNE: Now, the dispute
14 resolution procedures were in place irregardless
15 of lawsuits, intended to avoid lawsuits and
16 protracted commercial disputes. But at the tail
17 end of the project, we could sue each other.
18 Now, presumably, it would have been an issue for
19 -- under which we would have been at -- before
20 the -- a dispute resolution panel or a board.

21 CHAIRMAN MASSEY: But that 2015
22 contract by its terms resolved every dispute
23 that you had between -- with the consortium.

24 MR. BYRNE: It resolved the
25 disputes that we had at the time. There were a

1 couple of change orders that we were in the
2 process of negotiating that were not tied up
3 with that negotiation, but it was a small
4 handful of things.

5 CHAIRMAN MASSEY: Did disputes
6 arise between October 27, 2015, and February
7 2016 that would have led to litigation after the
8 completion of the project?

9 MR. BYRNE: We did have a couple
10 of disputes. Now, they didn't lead to
11 litigation at this point in time, but we hadn't
12 gotten to that point yet. But the construction
13 milestone payment schedule was one issue we had
14 a dispute on.

15 CHAIRMAN MASSEY: Right. I mean,
16 the schedule was still a problem.

17 MR. BYRNE: It wasn't necessarily
18 that the schedule was a problem. It was how you
19 pay -- we wanted to make sure that we only paid
20 the contractor for actual progress on the
21 project. Again, we're trying to incent them to
22 get the construction done in a timely fashion,
23 and so we wanted to make sure that if they
24 didn't hit milestones, they didn't get paid.

25 CHAIRMAN MASSEY: Right, because

1 that renegotiated contract provides, and I think
2 there was some conversation earlier about a
3 liquidated damages provision if they didn't meet
4 certain -- if they didn't complete the project
5 by certain days, then they've got certain
6 penalties for each day, each week, each month,
7 whatever, that that didn't complete it, up to a
8 cap, like two year or something. But it also
9 included incentives payments if they got -- I
10 mean, you were trying to encourage them to do
11 the project.

12 MR. BYRNE: We were trying to
13 give both a carrot and a stick in order to get
14 the project finished and to qualify for
15 production tax credits.

16 CHAIRMAN MASSEY: Were you aware
17 of westinghouse's financial problems when you
18 renegotiated that contract in October of 2015?

19 MR. BYRNE: No, and they are not
20 a publicly traded company, so we don't
21 necessarily have any insight into their
22 financials.

23 CHAIRMAN MASSEY: Were you aware
24 of Toshiba's financial problems at that point?

25 MR. BYRNE: We were not aware of

1 the financial problems that they outlined, I
2 think it was in December of 2016, no.

3 CHAIRMAN MASSEY: So you were
4 aware they were having trouble.

5 MR. BYRNE: They had some -- they
6 had an issue, a financial issue from, I think, a
7 year or two earlier, but they had largely
8 recovered from that issue and were still
9 commercial -- they were still investment grade?

10 MR. ADDISON: Yes, Senator --
11 exactly. So they were -- at the time we
12 executed that contract, they were an investment-
13 grade company.

14 CHAIRMAN MASSEY: All right.
15 What was it about Westinghouse's performance up
16 until this point that gave you confidence that
17 they could complete the project by any deadline?

18 MR. BYRNE: Yeah, the -- well, we
19 -- a couple of things. One, we thought that
20 they could complete the project based on the
21 construction successes that they had had in
22 China. So it wasn't that the design was not
23 constructible. We had been working with the
24 regulator to streamline some of the change
25 processes. They had finally come around to our

1 way of thinking on many things; for example, we
2 wanted them to put more field engineers on -- at
3 the site in Jenkinsville so that design issues
4 like routing paperwork to Pittsburgh or
5 somewhere else or Charlotte before it comes back
6 to the site didn't necessarily have to happen.

7 The parts and pieces that we had
8 ordered -- I think of the major parts and
9 pieces, we had like 95 percent of them on the
10 site, and of all the parts and pieces, we had
11 about 80, 85 percent of them there at the site,
12 so it was -- the supply chain issues were being
13 resolved. The module issues were being
14 resolved. The new companies that we had
15 diversified that supply chain to were coming in
16 with better schedules and better quality than
17 the Lake Charles facility was. So from our
18 perspective, we had reason to believe that they
19 could do that.

20 The -- Fluor coming onto the
21 project as the construction partner was going to
22 be positive from our respect, so -- Fluor
23 constructed V. C. Summer Unit Number 1, and the
24 last couple of build projects that SCE&G had
25 under EPC arrangements were with Fluor that were

1 successful. We had scrubbers that we had
2 constructed with them on a couple of locations.
3 The Cope facility -- it's a coal plant in
4 Orangeburg -- the Jasper combined-cycle gas
5 facility, that -- those were, those were
6 construction projects with Fluor, and Fluor, in
7 a relatively short period of time, had increased
8 the construction workforce, which was one of the
9 issues that the Bechtel Report raised, by -- I
10 think they doubled it.

11 CHAIRMAN MASSEY: Didn't the --
12 the Bechtel Report pointed out that -- pointed
13 out these problems that we talked about with the
14 supply chain and the other deficiencies in
15 performance, didn't it?

16 MR. BYRNE: It did.

17 CHAIRMAN MASSEY: All right.
18 That report was issued in 2016, and that report
19 said those things were -- they still existed at
20 that point.

21 MR. BYRNE: The report was based
22 on information that was a little dated. They
23 were on-site, I think it was in August of '15
24 through, through about the end of September, it
25 think it was, of '16 -- or, sorry, '15, so they

1 -- even though the report didn't come out until
2 sometime in 2016, they were finished with their
3 analysis on-site in 2015.

4 CHAIRMAN MASSEY: And they
5 referenced the new contract in their report at
6 one point. I mean, it says -- and again, I
7 don't really want to get in the weeds too much
8 on this, but it referenced the new con -- the
9 new agreement that you had with Westinghouse,
10 and it -- and they specifically said, "This new
11 arrangement will not fully address the project
12 challenges and EPC shortcomings that we have
13 observed and documented." Do you disagree with
14 that conclusion?

15 MR. BYRNE: The term "fully"
16 means I really can't disagree with that
17 conclusion, but the -- our intent, when we
18 negotiated the 2015 agreement, was to take care
19 of many of the commercial issues we had between
20 the owners and the consortium partners. It was
21 to restructure the consortium arrangement, and
22 it was all aimed at giving them incentives to
23 finish these plants on time. So we think that
24 it did take care of many of the issues.

25 Now, would it take care of every

1 one of them? No, certainly not. We were still
2 going to have issues and problems. We -- you
3 know, if we didn't think we were going to have
4 any more commercial issues with the consortium,
5 we wouldn't have put in a provision for dispute
6 resolution.

7 So we understood that there were
8 going to be issues, you know, from then to the
9 time we finished the project. We just thought
10 that the issues would be much lessened and that
11 their progress would be much greater. So it was
12 all aimed at taking away a lot of the roadblocks
13 that we had seen up to that point in time.

14 CHAIRMAN MASSEY: But in essence,
15 Westinghouse's performance was essentially the
16 same as it had been before.

17 MR. BYRNE: I don't know that I
18 would agree that the Westinghouse performance
19 was, in essence, the same as it had been before.

20 CHAIRMAN MASSEY: It was still
21 deficient, wasn't it?

22 MR. BYRNE: Well, they certainly
23 were not meeting our goals and our desires for
24 completion. That's correct.

25 CHAIRMAN MASSEY: So Mr. Marsh

1 told us earlier that SCE&G had a competent
2 management team on-site in 2008, as early as two
3 thousand -- I think I have -- did I hear that
4 right, Mr. Marsh?

5 MR. MARSH: That's correct.

6 CHAIRMAN MASSEY: All right. You
7 got some murmurs up here when you said that.
8 But, you know, one of the -- some of the
9 criticisms that Bechtel outlined was -- I mean,
10 I will concede that most of the criticisms they
11 pointed out were directed at Westinghouse. But
12 they also criticized the owner's management and
13 oversight of the project; do you agree with
14 that?

15 MR. MARSH: They had some
16 comments in there to that effect, yes, they did.

17 CHAIRMAN MASSEY: Yeah, they did.
18 And some of those comments were that you needed
19 a project management organization and more
20 experienced staff on-site, that you needed to do
21 a better job of overseeing Westinghouse's
22 progress, but, I mean, as with the other thing,
23 I mean, you didn't really need Bechtel's report
24 to tell you that, did you?

25 MR. MARSH: Well, we had -- as I

1 told you before, we had identified majority of
2 these issues with our team prior to Bechtel
3 coming on-site. The one you just mentioned, the
4 project management organization, I believe that
5 was a discussion one of our leadership personnel
6 had with the Bechtel team when they were on-
7 site, so they put that in the report. I mean,
8 that was something we had identified.

9 we had worked with Fluor and
10 Westinghouse. We had put together project
11 assessment teams. Once they identified -- once
12 we signed the contract, the amendment with
13 Westinghouse, we immediately went to work with
14 Fluor and Westinghouse, trying to address issues
15 so when they got on the ground in early January
16 and February, we'd have a plan in place. So we
17 were working on many of those issues, and our
18 team was actively involved in doing that.

19 CHAIRMAN MASSEY: And one of the
20 responses that you had to the Bechtel Report was
21 the creation of the Construction Oversight
22 Review Board, CORB; is that right?

23 MR. MARSH: That's correct.

24 CHAIRMAN MASSEY: All right. Now
25 -- so the first draft of the report that I've

1 seen -- I've seen two reports from CORB. One of
2 them was late August, early September of 2016,
3 and one of them, I think, was December, and the
4 December report indicates they're going back out
5 in February, but I haven't seen whether they
6 went back out. But that first report from CORB
7 indicates that they made initial site visits in
8 July and August of 2016. Why did it take at
9 least six months to get them out there on-site
10 after the Bechtel Report was issued?

11 And I think that's kind of being
12 somewhat generous because that's -- if you look
13 at the -- Bechtel, the written report was issued
14 in August, but y'all knew about it well before
15 August. You knew what their findings were going
16 to be well before August. And we didn't get
17 CORB out there until July or August -- I'm
18 sorry. Yeah. You knew about the Bechtel Report
19 findings well before February of 2016 when the
20 report was issued. Why did it take until July
21 or August of 2016 to get CORB out there on the
22 scene to try to figure out what was going on?

23 MR. MARSH: Our initial steps,
24 once we got the information from the Bechtel
25 Report, was right as we were signing the EPC

1 amendment with Westinghouse and bringing Fluor
2 on-site. We immediately shifted our focus to
3 the project assessment teams, trying to identify
4 those areas that were the highest priority in
5 terms of making corrections on the project.

6 We didn't forget the discussion
7 about CORB. We had a meeting with the Santee
8 board early in the year. They had ideas about
9 what they wanted to do with respect to project
10 oversight. We had a couple of meetings with
11 their board. We informed them that we would be
12 putting the Construction Oversight Board in
13 place. We did, in fact, start recruiting
14 members of that board.

15 Earlier in the year, we had a
16 leader, which was one we felt like was most
17 important for the project. Had him lined up.
18 Unfortunately, he took a job with another
19 utility, and the company he went to work for, my
20 understanding is, they did not want him to serve
21 in that role, so we had to start that process
22 over again to find the appropriate leader. Once
23 we got the leader, we identified the other
24 members of the board and put them into place.

25 CHAIRMAN MASSEY: Was the -- the

1 reports that CORB issued, did you consider those
2 to be confidential?

3 MR. MARSH: No, they were not
4 confidential.

5 CHAIRMAN MASSEY: All right. The
6 first report -- and again, I don't want to get
7 too much in the weeds on this one either. It's
8 not as much detail as the Bechtel Report. I
9 think it's only about seven pages long. But
10 that CORB report was interesting to me, the one
11 that was issued, I think it was at the very
12 beginning of September of '16, because it found
13 that Westinghouse lacked a realistic completion
14 schedule. Do you agree with that?

15 MR. MARSH: I think the Bechtel
16 Report had said that, and we were already
17 working with them to resolve that.

18 CHAIRMAN MASSEY: Yeah, but the
19 problem is, this is six or eight months later,
20 and CORB is saying they still don't have a
21 realistic completion schedule.

22 MR. MARSH: We had addressed that
23 issue with Westinghouse and Fluor once they knew
24 they were going to be running the project
25 together, that we needed and asked Fluor to work

1 with westinghouse to go back and give us a new
2 schedule. We asked for that. I testified at
3 the Public Service Commission we thought we were
4 going to receive that, and we continued to work
5 and pressure westinghouse to deliver that
6 schedule.

7 CHAIRMAN MASSEY: How many
8 chances do you give them? I mean, you -- I
9 don't disagree at all that y'all were asking for
10 these things and you were trying to pressure
11 them. I mean, you were trying to incentivize
12 them to do different things. You were trying to
13 put penalties in place. But, I mean, how many
14 chances do you give them because they never -- I
15 mean, they were never compliant with it. I
16 mean, at what point, short of bankruptcy, do you
17 just say, This is just too much? I mean, this
18 has been going on at least since 2011

19 I mean, and I realize I'm -- I've
20 got some hindsight here, but y'all had all this
21 information too. Problems since 2011. They
22 were never really -- I mean, they were deficient
23 the whole time. They were never really
24 providing the information. I mean, at what
25 point, short of the bankruptcy, them forcing you

1 into this, do y'all say, Enough is enough? What
2 would have been enough to push y'all over the
3 edge, that you'd have had to get out?

4 MR. MARSH: We were focused on
5 doing what was the best option for our
6 customers. We wanted to make sure, if we could,
7 to finish these projects, to make sure they were
8 cost effective for our customers. Every time we
9 went back to the Commission to make a change or
10 adjust costs -- I know in the 2012, 2015, and
11 2016 proceedings, we undertook a study based on
12 the information we knew at the time to evaluate,
13 would it make more economic sense to stop the
14 projects and build some other form of
15 generation, or does it make more sense and be
16 more cost effective for customers to go forward?
17 And the 2012, '15, and '16 analyses, based on
18 the information we had at the time, we concluded
19 and presented to the Commission in expert
20 testimony that it was better to move ahead with
21 the projects and try to resolve issues and keep
22 the projects going.

23 CHAIRMAN MASSEY: All right, and
24 I want to come back to that in just a second.
25 Mr. Carter, I've got the same question for you.

1 I mean, what would it have taken for Santee
2 Cooper to -- I mean, how bad did it have to get
3 -- how far would y'all have let them go before
4 you said, This is just enough; we can't go any
5 further? And it had gone pretty bad, pretty far
6 at this point, hadn't it?

7 MR. CARTER: Yes, sir. And I
8 think -- let me speak to it in these terms. As
9 a minority partner, we worked every day. We
10 pushed hard, we cajoled, we encouraged our
11 partner and our contractors to meet the
12 schedule. So when we did the agreement, we put
13 in place some pretty good protections for us,
14 Senator, that would help us. We had a fixed
15 price. We were only going to pay when they
16 finished work.

17 So what was left -- where was our
18 risk left? Our risk was left on the time that
19 it would take that -- and I'm speaking in the
20 primary, general terms -- in the time that it
21 would take because that's -- because we were
22 paying interest. As we went, that's what was
23 going to add costs to us.

24 And so I don't believe -- I can't
25 speak for the board, but I can tell you the

1 schedule issue was really -- we were at a point
2 where we were at about wits' end about it,
3 particularly because when we signed that
4 agreement, we've got executives, like you see us
5 --

6 CHAIRMAN MASSEY: Sure.

7 MR. CARTER: -- executives
8 looking at us, promising us that we were going
9 to get a schedule. We got that right up until
10 the end, until they went bankrupt, with every
11 CEO.

12 CHAIRMAN MASSEY: How many times
13 do let them promise you --

14 MR. CARTER: That's a --

15 CHAIRMAN MASSEY: -- until you
16 say, You know what, they're not really going to
17 do that.

18 MR. CARTER: Well, I gave up on
19 them in '14. I would tell our team that these
20 guys would tell us stuff and you couldn't rely
21 on it. So you only needed to believe on what
22 was physically presented.

23 And so they would make these
24 commitments. We were supposed to get the Fluor
25 information that would get it integrated into

1 it. We got schedules, but what they weren't --
2 what they didn't have, and again, this is from a
3 layman's perspective. I'm not a -- I don't --
4 you know, I didn't build things for a living. I
5 wasn't a construction engineer or whatever.
6 They would put into these schedules what I would
7 call false provisions. They would put in these
8 fixed dates that certain things would be done,
9 and they wouldn't necessarily, "they" being our
10 contractor, they wouldn't do what's referred to
11 as integrate all of this so that you would know
12 the number of hours and what it would take to do
13 something and could you get all of them in the
14 physical location to get the work done.

15 By -- certainly in my -- at least
16 in my mind, based on sitting around listening to
17 the people involved, by the time we got to 2015
18 and we were talking to those folks, you should
19 have been able to produce that, at least in my
20 mind. Again, I'm not holding myself out as an
21 expert, but I felt like, and the folks advising
22 us were telling us, you should be able to
23 present that, and that's what Bechtel is getting
24 at in its report. They needed to get realistic
25 about what would it take to do all of this, and

1 the --

2 CHAIRMAN MASSEY: They never did.

3 MR. CARTER: They never did, no,
4 sir.

5 CHAIRMAN MASSEY: But --

6 MR. CARTER: In fact, what's
7 terrible about it is, we got a new CEO at
8 Westinghouse some time in 2016, and he
9 understood -- I mean, he seemed to have
10 understood and understood that I wasn't going to
11 believe him until he produced it, until we
12 actually had it. Telling me wasn't going to win
13 him anything with me. He had to produce it. I
14 believed that he was actually going to do it,
15 and what -- based on the information we later
16 got in this year, in 2017, he was actually
17 surprised, that he felt like he was being misled
18 by his people about what Westinghouse actually
19 had.

20 CHAIRMAN MASSEY: Well, let me
21 ask you this, and this may be a better question
22 for Mr. Lord, but I'm curious. Did, did, did
23 y'all ever really inform PURC about the problems
24 that we've been talking about today?

25 MR. LORD: Senator, I don't think

1 we formally did, but we tried to keep as much as
2 the -- the General Assembly up to speed on the
3 progress as we could.

4 CHAIRMAN MASSEY: Did y'all
5 notify the advisory committee of the problems
6 that you were having?

7 MR. LORD: We send a letter to
8 the advisory committee every year.

9 CHAIRMAN MASSEY: Is that the
10 extent of the contact that you have with them?

11 MR. LORD: That was the extent.

12 CHAIRMAN MASSEY: And did -- was
13 there any response from the advisory committee
14 about -- I mean, did they engage at all?

15 MR. LORD: I don't believe so.
16 They didn't engage with me.

17 CHAIRMAN MASSEY: All right. Mr.
18 Carter, you -- I mean, you're -- and you're
19 probably in a good position to answer this
20 question now with the -- with your retirement
21 and all. I'm curious. Did you feel political
22 pressure to go forward with this project, even
23 though you knew it was a bad deal?

24 MR. CARTER: We knew -- and like
25 I said earlier, we worked hard. We knew that if

1 we were going to cancel this project, we had to
2 have -- as I would say, we had to have proof
3 that there was no way to go forward. This
4 project was popular in this state, politically
5 and, quite frankly, otherwise is the way I would
6 have categorized. That's certainly the feeling
7 I got.

8 The state wanted -- you know, we
9 had state and federal support for these -- for
10 this project, and so we had to know that we just
11 simply -- the state and our customers couldn't
12 afford it, so that's why we were doing
13 everything we could to make sure that we tried to
14 get the project finished.

15 But back to -- really, to answer
16 your question more directly about how far would
17 you have gone on schedule, I don't believe that
18 our board would have tolerated getting all the
19 way through this year without having that
20 integrated schedule because as you can see from
21 the documentation that we provided, that once
22 you knew all of that, it was definitely going to
23 take longer. We would -- I'm fairly confident
24 the board would have told us to reevaluate had
25 they seen that information -- had we seen it.

1 CHAIRMAN MASSEY: And I'm almost
2 finished, Mr. Chairman. I've got --

3 CHAIRMAN SETZLER: Can I ask one
4 question --

5 CHAIRMAN MASSEY: Sure.

6 CHAIRMAN SETZLER: -- right there
7 on that point? Before we go any further, I want
8 to clarify. Did you -- you said you gave up in
9 2014. Any time from 2014, before Westinghouse
10 went bankrupt, did you go to the chairman of the
11 Senate Finance Committee, to the chairman of
12 Ways and Means, the President Pro Tempore, the
13 Speaker of the House, to PURC formally, or to
14 the Governor and say, we got a problem as a
15 state-owned utility with this project we're in;
16 we need your help? Did you ever come to anybody
17 and say, we need your help?

18 MR. CARTER: We went to the board
19 with our information, yes, sir. That's who we
20 went to.

21 CHAIRMAN SETZLER: Did the board
22 every go to anybody?

23 MR. CARTER: I'm not aware of
24 anybody going formally, but we certainly openly
25 expressed our concern about the schedule.

1 CHAIRMAN SETZLER: That's not my
2 question, Mr. Carter. Did you go to those
3 people and say, We got a problem; we need help?

4 MR. CARTER: None of the people
5 --

6 CHAIRMAN SETZLER: We're in a
7 mess.

8 MR. CARTER: -- that you listed,
9 other than the board, but people did ask us
10 about it. But we didn't go to any --

11 CHAIRMAN SETZLER: So as a state-
12 owned utility, you don't think you had a
13 responsibility to come to the Legislature or the
14 Governor or somebody and say, We got a problem;
15 we need help? Instead of just passing on rate
16 increases?

17 CHAIRMAN MASSEY: Or, we don't
18 need the power.

19 CHAIRMAN SETZLER: Or, we don't
20 need the power?

21 MR. CARTER: That information was
22 being provided.

23 CHAIRMAN SETZLER: To who?

24 MR. CARTER: To the advisory
25 board, certainly where we stood and what we

1 needed. Again, those weren't -- those things
2 weren't -- those were -- that's public
3 information and information that we talked
4 about. Specifically, though, back to why I --
5 what I was telling the executives that we were
6 dealing with at Westinghouse and CB&I -- didn't
7 get to that point with Fluor; Fluor wasn't there
8 long enough -- that they would come in and tell
9 us all these things that they were going to do,
10 I'd say, I'll believe you when you present them.
11 When they're physically present, that's when
12 I'll accept them.

13 CHAIRMAN MASSEY: I want to go
14 back to the CORB report just real quick, and,
15 Mr. Marsh, I want to talk with you about this
16 just a little bit more --

17 CHAIRMAN SETZLER: (INDISTINCT)

18 CHAIRMAN MASSEY: -- because we
19 talked about that one of the --

20 CHAIRMAN SETZLER: I got Brad
21 (INDISTINCT) --

22 CHAIRMAN MASSEY: -- one of the
23 findings on the CORB report was that
24 Westinghouse lacked the completion schedule.

25 CHAIRMAN SETZLER: (INDISTINCT)

1 CHAIRMAN MASSEY: That report
2 also noted that there were deficiencies with the
3 engineering, the design, the procurement, and
4 the construction at that point in August,
5 September 2016, didn't it?

6 MR. MARSH: I mean, those were
7 the same issues that were raised in the Bechtel
8 Report --

9 CHAIRMAN MASSEY: That's right.

10 MR. MARSH: -- and we were
11 putting steps in place and taking actions to try
12 to correct those from our side.

13 CHAIRMAN MASSEY: So, I mean, we
14 knew -- we've known about these problems for a
15 number of years, but Bechtel pointed them out,
16 told you about them in late '15, early '16. By
17 July or August '16, we've got CORB out there,
18 and they're telling us the same thing. I mean,
19 it also noted there were some deficiencies with
20 management in oversight out there. I mean,
21 essentially the CORB report in September of 2016
22 told us the same thing that Bechtel told us in
23 late 2015, which is the same thing that you've
24 known for a number of years. I mean, isn't that
25 fair?

1 MR. MARSH: Well, the -- with
2 respect to the design issues and
3 constructability issues, I don't think those
4 were a surprise, and I've got my team here that
5 can walk you through some of the things we did
6 if you'd like to hear that. But when I met with
7 the CORB before they went to their first visit
8 in the field and we put that group together, I
9 told them why we put the group together, that we
10 wanted to make sure we were not missing any gaps
11 in oversight or leadership that we needed on the
12 project.

13 I told the chairman very clearly,
14 when you identify where we need additional
15 resources, I said, I'd like for you to be able
16 to tell me if that's something that can be met
17 with a contractor that could come on and address
18 an issue for a period of time and then exit the
19 project or if that's someone I need to bring
20 onboard in a permanent role to address the issue
21 because it's a longer term need that we have.

22 That was one of the challenges
23 that I gave the CORB. And as they were, you
24 know, doing their work in the fall, they were
25 beginning to make those recommendations, and we

1 were putting actions in place to address those.

2 CHAIRMAN MASSEY: Well, and this
3 is an important time period, I think, because in
4 2016, in the summer of 2016, SCE&G applied to
5 the Public -- filed an application with the
6 Public Service Commission for another rate
7 increase; is that right?

8 MR. MARSH: That's correct.

9 CHAIRMAN MASSEY: In fact, it was
10 the largest rate increase that you'd ever
11 requested for this project; isn't that right?

12 MR. MARSH: It probably was
13 because it included about \$500 million, which
14 was what we paid to fix the price on the
15 contract. That would have been the bigger
16 portion of that.

17 CHAIRMAN MASSEY: And it looks
18 like, to me, from the time frame is that the
19 CORB report, which basically reiterated all the
20 Bechtel concerns, would have been issued right
21 about the same time that the negotiation was
22 complete with ORS and the other interested
23 partners to approve that rate increase; does
24 that sound right?

25 MR. MARSH: I don't recall the

1 dates. That hearing was to do two things. It
2 was not just to approve the rate increase. It
3 was to approve the fixed-price contract itself,
4 so we spent a lot of time with the intervening
5 parties to make sure they understood the
6 contract, what the changes in the contract would
7 be, what we saw as the benefits of the new
8 contract opposed to the original EPC contract.
9 But that was all in the hearing.

10 CHAIRMAN MASSEY: I think that
11 hearing was actually late October or November,
12 something, of 2016. It confirmed what -- I
13 mean, there was a written settlement agreement
14 that was completed, I think, at the beginning of
15 September of 2016, prior to that hearing. Does
16 that sound right to you?

17 MR. MARSH: Yes, that would have
18 been completed prior to the hearing.

19 CHAIRMAN MASSEY: All right, so I
20 guess my real concern is whether those
21 interested parties and whether ORS knew about
22 the CORB report at that same time period that
23 said basically the same thing that Bechtel had
24 said nine months earlier.

25 MR. MARSH: I don't know if they

1 had seen those or not. I don't recall.

2 CHAIRMAN MASSEY: Mr. Chairman, I
3 think my five minutes are up, so I'll --

4 CHAIRMAN SETZLER: I think you're
5 past up. Very good. Before we go any further,
6 Senator from Orangeburg is next. Is the desire
7 of the committee to keep going, or break for
8 lunch, how -- last time, we wanted to keep
9 going. You want to keep going? Okay. Senator
10 from Orangeburg.

11 SENATOR HUTTO: Mr. Carter,
12 earlier, you said that you thought that the
13 contractor had kept some things from you. What
14 were the nature of those things that were --
15 that you think were being kept from you?

16 MR. CARTER: The biggest thing
17 that I think that they were keeping from us was
18 -- and that we finally got to see when the
19 bankruptcy occurred; as I say, the curtain went
20 down -- was the actual number of hours that it
21 was going to take, man hours, in the various --
22 I forget what they call them, but specialties,
23 you know, concrete pouring, cable pulling, all
24 those types of things, how many hours it was
25 actually going to take and the -- and actually,

1 this part that I've talked about before, which
2 is what we were looking for, getting that
3 integrated and getting it done in a sequence.
4 Because by two thousand -- by -- certainly by
5 the middle of 2016, the procurement issues were
6 not what was keeping us from meeting the
7 productivity factors.

8 SENATOR HUTTO: Because you had
9 basically 95 percent, 80, 95 percent of the
10 parts on-site. It was the actual construction
11 at that point, right?

12 MR. CARTER: Yes, sir, and that
13 was, again -- problems with engineering were
14 showing up, work packages, stuff like that, and
15 getting the work organized and organized in an
16 efficient way on the site.

17 SENATOR HUTTO: If you had known
18 what you finally saw when the curtain came down
19 in a more timely fashion, what could you have
20 done? What would you have done?

21 MR. CARTER: Our two choices were
22 to either -- to cancel, to stop the project, or
23 to go forward. And we would have, knowing the
24 amount of time, the additional time, we would
25 have had to have reevaluated because we were

1 thinking that, you know, it might go another 12
2 or 18 months, but as you can see, it almost went
3 four years longer.

4 SENATOR HUTTO: Okay. Y'all have
5 both used the word "constructability," and Mr.
6 Marsh, you said that you thought that that was
7 ultimately not going to be an issue because they
8 had done it in China, right?

9 MR. MARSH: I believe it was Mr.
10 Byrne that responded to that --

11 SENATOR HUTTO: Okay.

12 MR. MARSH: -- so I'm going to
13 defer to one of the engineers, if you don't
14 mind.

15 SENATOR HUTTO: All right. Well,
16 what I want to know is, somebody talk to me
17 about constructability because it seems to me I
18 heard that sometimes, parts coming -- or modules
19 coming from Lake Charles weren't going to fit up
20 and they were going to have move pipes or do
21 this. That doesn't sound like something's ready
22 to be constructed if these problems exist, yet,
23 at the same time, apparently this type of
24 -- or this prototype of design had been used in
25 other countries. Is that -- am I right or wrong

1 on that?

2 MR. BYRNE: Well, let me amplify
3 that just a little bit. We are building these
4 plants in this country under Title 10 of the
5 Code of Federal Regulations, Part 52. Part 52
6 is new to our industry. Previous nuclear
7 construction builds were under Part 50, and in
8 Part 50 space, it was a two-step licensing
9 process. You got a construction permit where
10 you actually went out and physically did the
11 construction. Then it was stopped, and then you
12 made a license application, and there was a
13 separate set of hearings, separate opportunities
14 for intervention.

15 So the effort actually was to
16 simplify the regulatory process and give you a
17 construction and an operating license at the
18 same time, which is what we got in March of
19 2012. What that means, though, is that since
20 you now have -- under the old Part 50 rules, if
21 you had something that didn't line up, you just
22 made it line up and then you as-built the
23 drawings later, which is pretty typical in
24 normal construction if you're building a
25 building or whatever it is you're building.

1 Under Part 52, if they don't line
2 up, you have to go through a process to say, Is
3 this defined in the license? And if it is, I
4 have to go and change the license. So I can't
5 do that move until I change the license. So
6 when we talk about constructability issues, if
7 the contractor doing the construction says, I
8 really can't build it that way -- which is a
9 normal process -- can you -- he goes to the
10 designer and says, Can you adjust it to make it
11 like this?

12 And if the answer is, well, I
13 can, it may mean that we need a license change
14 to do that. So from a tolerance perspective,
15 this plant is very tight on tolerances, and from
16 the regulatory perspective, it's unforgiving
17 when you want to make those normal field changes
18 in the field that the -- that a constructor
19 oftentimes makes.

20 SENATOR HUTTO: But I hear you
21 say that you went from the 50 to the 52 with the
22 idea that you were making things more efficient,
23 maybe, and simplifying them, but in reality,
24 what you're saying is, maybe that -- it didn't
25 work out that way.

1 MR. BYRNE: Yeah, I think it's,
2 it's an unintended consequence of the change in
3 the regulatory framework, and part of it is the
4 stance that the Nuclear Regulatory Commission
5 has taken to look at how tightly they want these
6 tolerances. So it is a very difficult way, as
7 it turns out, to construct a nuclear power
8 plant. But, you know, that change in the
9 regulation had happened well before we started
10 on our construction process.

11 SENATOR HUTTO: And so presumably
12 the fact that they were able to do these things
13 in China was because the regulatory oversight
14 was not nearly as intense as it is here.

15 MR. BYRNE: That's -- that would
16 be some of it, yes.

17 SENATOR HUTTO: Okay. What would
18 be the other part?

19 MR. BYRNE: Well, one of the
20 things that we heard from the contractor,
21 particularly when it got into modules, was that
22 there, there were some things that they would do
23 from a safety perspective that would change the
24 design or change the construction process, and
25 what we learned when we went to China was that

1 the Chinese didn't stop for those kind of safety
2 issues. They just kept going.

3 SENATOR HUTTO: Okay. In the
4 2013 December time frame when Santee Cooper was
5 contemplating selling parts to Duke, it -- Mr.
6 Marsh, you said that you wanted them to, if they
7 were going to come onboard and purchase part, to
8 accept the risks of the construction?

9 MR. MARSH: We wanted them to
10 come into contract under the same terms. The
11 simplest way for me to describe that would be,
12 you would just add a partner to the project.
13 They would accept all the terms and conditions
14 and all the risks that were in the contracts
15 that we and Santee had signed with Westinghouse
16 and the consortium.

17 SENATOR HUTTO: And were you
18 concerned about that then because you knew, even
19 at that time frame, that there was going to be
20 some problems?

21 MR. MARSH: No. We just thought
22 it would be best to have all of our interests
23 aligned and for one party not to have an
24 advantage over another.

25 SENATOR HUTTO: Okay. Mr.

1 Carter, you've indicated that 45 -- 40 percent,
2 45 percent, even 40 percent was probably too
3 much for Santee Cooper's needs. So let's back
4 up in time. Sometime in the middle of the 2000,
5 2010 time frame, so I guess around 2003, '04,
6 '05, it was determined that you had some
7 capacity needs?

8 MR. CARTER: Yes, sir. When we
9 went into the project, even in 2008, our
10 projections were we needed all that we would
11 have owned, yes, sir.

12 SENATOR HUTTO: Oh, you would
13 have needed all of the 40 --

14 MR. CARTER: All of it, all 45
15 percent, actually, and then some.

16 SENATOR HUTTO: Okay. And part
17 of that was because South Carolina's growing.
18 We've got more people coming here.

19 MR. CARTER: Yes, sir. Some of
20 it was growth --

21 SENATOR HUTTO: Right, and some
22 of it was your generation facilities were aging
23 out.

24 MR. CARTER: Yes, sir.

25 SENATOR HUTTO: And some of it

1 was the fuel that we're using for your
2 generation was expensive, and this was going to
3 be -- give you a cheaper source of fuel to
4 produce the electricity at a lower cost.

5 MR. CARTER: And be non-carbon.

6 SENATOR HUTTO: And be -- and a
7 another is, it wasn't going to emit the
8 greenhouse gasses, right.

9 MR. CARTER: Yes, sir.

10 SENATOR HUTTO: There were a lot
11 of good reasons to think ahead that this was
12 going to be a win-win for everybody if it worked
13 out like it was supposed to.

14 MR. CARTER: Yes, sir.

15 SENATOR HUTTO: Okay. And you --
16 as you said, it was politically popular. I
17 mean, there's no doubt that South Carolina has
18 been friendly to the notion of having its
19 electricity generated by nuclear; is that true?

20 MR. CARTER: Yes, sir. This
21 state has a number of nuclear operating
22 facilities already.

23 SENATOR HUTTO: All right. So
24 what changed that caused you to believe that the
25 45 percent stake that you had now became too

1 much capacity for you?

2 MR. CARTER: Because -- there
3 were a number of reasons. One, the great
4 recession hit in 2008, as we refer to it as.
5 That really brought down our load.

6 SENATOR HUTTO: Did it bring down
7 your load, or your estimate for your future
8 need?

9 MR. CARTER: It actually brought
10 down the load and the estimate for future need.
11 And we also were able to -- the electric
12 cooperatives that we serve worked out an
13 arrangement to take a fairly large piece of
14 power off. That was part of it also. So -- and
15 over time, those load projections continued to
16 decrease, and I think a lot of that we've seen
17 is because of conservation that's actually come
18 into play into the market.

19 SENATOR HUTTO: And so now,
20 looking forward, do you have any capacity need?

21 MR. CARTER: Our next capacity
22 need would be sometime in 2030. I think it's
23 2036 exactly, based on what we currently
24 project.

25 SENATOR HUTTO: Okay.

1 MR. CARTER: But there are --
2 there's a lot that could happen between now and
3 then that would even change that. That doesn't
4 assume any unit retirements. It actually
5 assumes that we would restart an existing coal
6 unit, Cross 2.

7 SENATOR HUTTO: With coal, or
8 with natural --

9 MR. CARTER: Coal.

10 SENATOR HUTTO: Coal? Okay. Mr.
11 Marsh, did y'all -- did SCE&G need the 55
12 percent of the plant, what it was going to
13 produce?

14 MR. MARSH: We did. In our
15 projections that we presented to the Public
16 Service Commission, which was part of the
17 approval process, we had to present that
18 forecast. It did show the needs. I was asked
19 in those hearings, what would happen if our
20 projections were wrong or we needed less, and my
21 response was, we had flexibility in the plan.
22 We had some older coal-fired units that we
23 believed we could shutter if we didn't have a
24 need for the energy. We were also impacted by
25 the 2009 impact in the marketplace, recession,

1 and we did, in fact, shutter a number of our
2 older coal-fired plants.

3 SENATOR HUTTO: Looking forward
4 now for you, what kind of need do you have now
5 that you're not going to get this 55 percent of
6 the V. C. Summer?

7 MR. MARSH: We do have a need for
8 additional capacity. We believe, and Mr. Byrne
9 can add to this if he'd like, there is ample
10 capacity available for purchase in the
11 marketplace to meet our firm commitment. Since
12 we won't have the power from this unit, we will
13 also be evaluating the addition of a natural
14 gas-fired unit at some point to meet that need.

15 SENATOR HUTTO: So when you
16 "purchase in the marketplace," you'd be
17 purchasing power that you didn't yourself
18 generate?

19 MR. MARSH: That's correct.
20 Somebody else in the marketplace has that
21 available on terms that would be good for us to
22 purchase.

23 SENATOR HUTTO: Okay. So, you
24 know, hindsight is 20-20, and we can sit here
25 for days and days and go back and review what

1 happened, but we can't change any of it. But
2 let's look forward for a minute. So I'll start
3 with you, Mr. Carter. Is -- do we need to
4 change the way that we have -- conduct oversight
5 for santee cooper? Should it report to the PSC?
6 Should it have to -- when you have a rate
7 increase now, what, what process do you go
8 through?

9 MR. CARTER: The board is
10 regulatory authority.

11 SENATOR HUTTO: All right, so the
12 board determines, using their due diligence and
13 looking at the marketplace and needs -- that a
14 rate increase is needed, they just announce a
15 rate increase.

16 MR. CARTER: Yes sir. They
17 actually are required by statute to set rates at
18 least sufficient to cover all the costs.

19 SENATOR HUTTO: Are you required
20 to have public hearings?

21 MR. CARTER: The -- I don't know
22 -- well, somehow, yes, sir. There must be some
23 provision of law that requires them. We
24 certainly have them.

25 SENATOR HUTTO: Okay. And is

1 there any appeal process from the board? If the
2 board decides to increase the rates, can the --
3 anybody intervene or complain or object?

4 MR. CARTER: They certainly can
5 come and complain to the board, which they do.

6 SENATOR HUTTO: Right.

7 MR. CARTER: And then, I guess
8 then the next step would be for somebody to take
9 us to court.

10 SENATOR HUTTO: Okay, so --

11 MR. CARTER: I think that's the
12 next --

13 SENATOR HUTTO: -- short of
14 litigation --

15 MR. CARTER: Yes, sir.

16 SENATOR HUTTO: -- there would be
17 no other oversight to the decision of the board
18 to raise the rates, other than, ultimately at
19 some point in time, next time the board came up
20 for review, the legislature might not -- or the
21 Governor may not pick those board members.

22 MR. CARTER: Yes, sir.

23 SENATOR HUTTO: Are -- your board
24 -- the board members that you have now are
25 appointed by the Governor, confirmed by the

1 Senate; is that right?

2 MR. CARTER: Yes, sir. They go
3 through a review process and then are -- yes,
4 sir.

5 SENATOR HUTTO: Okay, and so --
6 but other than that, there really is no
7 oversight entity like the private utilities have
8 with the PSC?

9 MR. CARTER: No, sir. The board
10 is the complete -- they are the regulatory
11 authority. They have to authorize the
12 expenditures, and they had to authorize the
13 rates to recover, yes, sir.

14 SENATOR HUTTO: Okay. Act 281 is
15 the act that allowed Santee Cooper to enter into
16 a contract to purchase a nuclear plant, correct?

17 MR. CARTER: I'm not familiar
18 with the act number --

19 SENATOR HUTTO: Well --

20 MR. CARTER: -- but, yes, sir, it
21 took --

22 SENATOR HUTTO: But it took an
23 act --

24 MR. CARTER: It took legislation
25 in order for us to have a joint ownership with a

1 private company, yes, sir.

2 SENATOR HUTTO: And that's
3 something you advocated for.

4 MR. CARTER: Yes, sir, because we
5 wanted to build the nuclear facility, yes, sir.

6 SENATOR HUTTO: Because at the
7 time, everybody thought that was the best idea.

8 MR. CARTER: Yes, sir, and we --
9 that's the mechanism that we used for the
10 current ownership in Summer 1.

11 SENATOR HUTTO: Okay.

12 MR. CARTER: And it had worked.
13 It had worked well for us.

14 SENATOR HUTTO: All right. And,
15 Mr. Marsh, back in time, y'all advocated for the
16 Base Load Review Act as something that would be
17 necessary for you to forward with this
18 construction; is that correct?

19 MR. MARSH: Yes, sir. We
20 believed it was necessary to support the
21 construction and support our ability to raise
22 the funds from the financial markets to provide
23 the cash to actually do the construction.

24 SENATOR HUTTO: Well, in fact,
25 isn't it -- wasn't it basically represented to,

1 to us and the public at the time that without
2 the Base Load Review Act, you really weren't
3 going to be able to go forward?

4 MR. MARSH: That was our belief.
5 That's correct.

6 SENATOR HUTTO: Okay. And is
7 there a continuing need for the Base Load Review
8 Act to be the law of the State of South
9 Carolina?

10 MR. MARSH: Well, you may not
11 want my opinion because people have a lot of
12 disagreements about this, but --

13 SENATOR HUTTO: Oh, no, I do want
14 your opinion because, you know, at the time, it
15 was presented that that was a reasonable way to
16 finance future growth, and it -- with very
17 little fanfare and not much objection, was
18 adopted by this Legislature, so it clearly
19 appeared to have merit at the time, and my
20 question is, does it still have merit?

21 MR. MARSH: My belief is that it
22 does still have merit. It was designed to put a
23 process in place that really, I won't say
24 streamlined, but made it more efficient to do
25 what had already been done in previous

1 regulatory proceedings.

2 we, we've had abandonments in
3 this state in the past, and they've been managed
4 through that process. We've built nuclear
5 plants in the past that were managed without the
6 Base Load Review Act, but I was here in the '70s
7 and '80s when we built V. C. Summer Unit Number
8 1, and there was a better way to do that from a
9 financial perspective, both to have a better
10 relationship with the financial markets in
11 raising the capital, but also in saving
12 customers money as part of an efficient process.

13 we said in a number of
14 proceedings that, by doing the Base Load Review
15 Act -- I mean, by implementing the Base Load
16 Review Act, we would save customers a billion
17 dollars during the construction of the project,
18 and if it had operated, it would have saved
19 another \$4 billion over the life of the project,
20 just because of the efficient financing
21 techniques used in that. That was challenged.
22 A couple of years ago, the Office of Regulatory
23 Staff hired an independent public accounting
24 firm to validate that, and it was, in fact,
25 validated.

1 I think the law was very
2 transparent in terms of changes that need to be
3 made. I know I was in the initial hearing to
4 get the project approved, went on some three
5 weeks with 20-plus witnesses to provide expert
6 testimony to the Commission, and it said as long
7 as you have a construction schedule, and you're
8 within that schedule, and you have a capital
9 cost that's been approved, and you are following
10 in that capital cost, that you could make a
11 revised adjustments each year.

12 I mean, we told that to the
13 Commission in 2009 and actually provided them a
14 schedule that those adjustments would be put
15 into place. But every time we needed to change
16 the schedule or we had an adjustment to the
17 cost, we had to go back to the Commission and
18 support that. We had to convince the Office of
19 Regulatory Staff. We worked with the
20 intervening parties to try to find a settlement
21 of those issues.

22 We actually, two times I can
23 recall, when costs were going up, we did not
24 want to have more impact on the customers than
25 necessary. We reduced our authorized rate of

1 return on the project so that we would earn less
2 and absorb part of that cost going forward.

3 So I think it was a transparent
4 process. It gave people an opportunity to raise
5 questions and express concerns over the project.
6 As I mentioned earlier, in 2012, '15, and '16,
7 when we went back to the Commission, we did the
8 study to evaluate, Is it more prudent to go
9 forward, or is it prudent to stop?

10 And I'm not here to say we didn't
11 want to build these plants. We wanted to build
12 these plants. We had expressed concerns over
13 environmental needs, greenhouse gases, and all
14 those concerns we expressed, you know, came
15 true. In 2015, we were staring down the face of
16 the Clean Power Plan. I don't know why we would
17 have wanted to have stopped these projects in
18 2015 if we didn't think they could be built.

19 we believed they could be built.
20 we had identified issues, but I don't think
21 anybody on our project team -- even the Bechtel
22 Report didn't say, These projects can't be
23 built. We believed we could resolve those
24 problems, so that's why we started to build the
25 plants. Our concerns materialized on the

1 environmental side, and we felt every need to
2 try to go forward.

3 SENATOR HUTTO: Well, you
4 prefaced that basically by saying, "As long as
5 we had a construction schedule." Did this
6 construction schedule that you provided to the
7 PSC, was it an accurate construction?

8 MR. MARSH: It was the schedule
9 that we believed was appropriate based on the
10 facts we knew at the time. We never gave them a
11 schedule that we didn't believe in.

12 SENATOR HUTTO: All right, and
13 was that schedule that you presented to the PSC
14 something that was given to you by Westinghouse,
15 or was that a -- your own construction schedule
16 that you generated to provide to the PSC?

17 MR. MARSH: It would have been
18 one that was provided to us by Westinghouse, but
19 our teams would have reviewed it. They would
20 have talked with Westinghouse and the
21 construction teams on the ground to understand
22 it.

23 SENATOR HUTTO: But, I mean, that
24 seems to be one of the big issues that we've
25 heard the whole time, is that the construction

1 schedules that you were given weren't real. And
2 when did you first -- I mean, obviously you
3 could say on day, day one, as soon as they
4 didn't meet the first thing, but when did it
5 really hit you that these construction schedules
6 were just not even close?

7 MR. MARSH: I'll let Mr. Byrne
8 give some more detail on that, but I believe
9 when we presented schedules to the Commission,
10 we believed those, those could be completed. My
11 gravest concerns --

12 SENATOR HUTTO: And accurate.

13 MR. MARSH: And accurate. My
14 gravest concerns came after we negotiated the
15 fixed-price contract amendment with Westinghouse
16 and they brought in Fluor -- we were all
17 excited, everybody was feeling good about Fluor
18 coming into the project because of their
19 credibility and their nuclear experience, and we
20 instructed them -- along with Santee, we said,
21 we want a new schedule. And they set about
22 doing that, and it was not due until early fall
23 of 2016.

24 I mean, that, that was a
25 deadline. They said to go completely through

1 the project, all the way through the numbers,
2 and give you -- give us our estimates. We need
3 some experience on the project to evaluate where
4 we see the issues. We'll have that schedule for
5 you in September. They started delaying in
6 September, and I was concerned because we
7 couldn't get straight answers in the fall.

8 I sat on the witness stand and
9 told the Commission, we're expecting the
10 schedule before the end of the year, and they
11 admonished me and said, we want to see that
12 schedule. We want you to share it with the
13 Office of Regulatory Staff as soon as you get
14 it, and we were pushing to get that schedule.
15 Once they -- once Toshiba came out, on December
16 27th, and announced the financial problems, I
17 was concerned that we would ever get the
18 schedule.

19 I sat with the same CEO that
20 Lonnie did on February the 14th and was told, we
21 have a schedule. It's been audited by our
22 outside auditors, and we're going to start
23 sharing that with you this afternoon on February
24 14th. That was not a true statement. We pushed
25 and pushed to get that schedule and never got

1 that schedule. That -- I became most concerned
2 after Westinghouse and Fluor worked on the
3 schedule and then never produced it.

4 SENATOR HUTTO: So going forward,
5 is -- to try to make the best of what faces us
6 now, what is the best case going forward for --
7 to -- I mean, do you see any way, ultimately,
8 these facilities can be -- the construction can
9 be finished on them?

10 MR. MARSH: There's no question
11 it could be finished. The question in our minds
12 as we did the analysis that we did from the date
13 Westinghouse declared bankruptcy until -- it was
14 July 31st, we announced that we weren't going
15 forward, was to find out, well, what would it
16 cost? What would the risk be associated with
17 the project? Does that make economic sense for
18 our customers?

19 I think our teams did a very
20 thorough job by going through that analysis, or
21 once they, as Mr. Carter said, let the curtain
22 down at Westinghouse and gave us access to all
23 the information, I believe the teams did a very
24 thorough job of trying to come up with the best
25 estimate going forward.

1 From our side, we did the
2 evaluation that said the same things we had done
3 in 2012, '15, and '16, Does it make sense to go
4 forward from a customer perspective? It was
5 always about the cost to the customers and what
6 was in their best interests, and when we did
7 that analysis for two plants, we determined that
8 was not in the best interest of our customers
9 going forward, primarily because you had lost
10 the fixed-price contract. You didn't have the
11 protections of schedule or cost creep.

12 That schedule would have pushed
13 you beyond the Production Tax Credit
14 qualification date, and I'll say, our, our state
15 legislative team in Washington, I thought, did a
16 phenomenal job providing us with support to try
17 to get those dates moved. We got it done in the
18 House of Representatives. We were not as
19 successful in the Senate. They ultimately may
20 be successful doing that. But with those risks
21 of the project and the additional cost, even
22 after offsetting that with the Toshiba parental
23 guarantee, our analysis said, This is not in the
24 best interest of our customers.

25 So we immediately went to the one

1 plant option, and we started looking at the one
2 plant option. You had some of the same risks
3 relative to Production Tax Credits and schedule
4 and all those issues. The cost was lower
5 because you were building only one of the two
6 plants. Not the most efficient build because
7 there's still infrastructure costs that has to
8 be put in place, whether you're building one or
9 two. Kind of like building a house on the side
10 of a mountain, it's cheap to do the basement
11 because you've already got the foundation in
12 place. It doesn't cost as much to do the rest
13 of it. And that's why we partnered with Santee,
14 because it was cheaper to build the two.

15 while we were doing that analysis
16 and we were keeping our teams updated with the
17 information, Santee had complete its analysis,
18 the same analysis we were doing to determine
19 what was in the best interest of their
20 customers, and I think Lonnie has testified and
21 said publicly, due to their reduced needs for
22 generation and the potential cost impact on
23 their customers, it was not the best option, and
24 they informed us that they did not want to go
25 forward. They were going to stop the

1 construction.

2 SENATOR HUTTO: So in
3 anticipation of construction and because
4 construction's partially complete, you've had a
5 series of rate increases approved by the PSC,
6 based on the fact that you were going to build
7 these plants.

8 MR. MARSH: That's correct.

9 SENATOR HUTTO: So now that the
10 decision's been made that you're not going to
11 build these plants, should the burden now for
12 those rate increases go back to the shareholders
13 and away from the ratepayers, and what -- should
14 there now be an adjustment so that we say, Okay,
15 you know, ratepayers paid this in anticipation
16 of getting something in the future, they're not
17 going to get it, so now, you should go back
18 before the PSC and say, We want to take our
19 rates to where they were before this
20 construction, and we'll let the impact fall on
21 the shareholders, regardless of what that might
22 do to the stock price?

23 MR. MARSH: Well, the costs that
24 were the basis for the increases in the revised
25 rates while we were building the project were

1 based on dollars that were prudently spent as
2 the project was being constructed. So it's my
3 opinion that those rate increases were prudent
4 at the time they were put into place. The
5 customers, under the Base Load Review Act, would
6 not pay any of the actually construction cost
7 until the project came online. They would only
8 pay the financing costs associated with the,
9 with the construction.

10 SENATOR HUTTO: I understand
11 that's how the formula worked, but in reality,
12 the entire process was predicated upon the
13 completion of the plant, and now that's not
14 going to happen. And so we've got ratepayers,
15 some on fixed income, who were -- now obligated
16 to pay an increased rate for something that
17 they'll never get. Some argued, and I've had
18 this discussion with some before, that, you
19 know, I'm a senior citizen, and by the time this
20 thing really affects me, it's really not fair
21 for me to be paying anyway.

22 But just set that argument aside
23 for a minute. Now it really becomes compelling
24 that the reason that they paid these increased
25 rates will never happen, and if the risk that

1 was taken was a shared risk at the time, based
2 on the Base Load Review Act, now it's not going
3 to happen, why shouldn't that risk fall back now
4 to the owners of the company?

5 I mean, nobody intended for the
6 result we're facing right now to happen, but it
7 did, and the question is, who should bear those
8 consequences? And in the -- the way I
9 understand the world of the private economy is
10 that there are risks and rewards, and private
11 corporations, they make risks in hopes of
12 gaining profits in the future. This case, you
13 came to the Legislature and said, In order for
14 us to do this, to get the financing done, we
15 need to share a little bit of that risk with the
16 shareholders -- with the ratepayers. But don't
17 worry because the ratepayers, in the end, are
18 going to benefit greatly because the reduced --
19 the power rates that they pay in the long term
20 are going to come down.

21 Now that's not true, so the
22 underlying predicate's not there. If that's not
23 there, why should not the public expect us to go
24 back now and reshift the priorities and say,
25 You've got to do this like any other company who

1 takes a risk. You've got to bear that with the
2 owners of the company. Y'all own a very
3 profitable company that -- stocks are traded
4 highly and seemingly do well. Why should you
5 not have to bear that burden versus the
6 consumers?

7 MR. MARSH: A couple of responses
8 to that. One, while it was never our intention
9 to have to fall back on abandonment, even though
10 it was a prudent decision, those provisions were
11 included, or are included in the Base Load
12 Review Act in case we got to this situation
13 where the most prudent action was to cancel the
14 construction, and that's what we've done.

15 The Act does allow for us to
16 recover the abandonment costs and earn a return
17 on those costs, but we are very sensitive to the
18 impact on our customers. We understand they
19 have paid for the costs, the construction costs,
20 financing costs to date, which is why we've made
21 every effort to minimize the impact on customers
22 going forward. As we sit here today, we've
23 spent, from and SCE&G perspective, about \$4.9
24 billion on the plant, all of which has been put
25 forward by the shareholders.

1 SENATOR HUTTO: And how, how much
2 has been put -- paid for by the ratepayers?

3 MR. MARSH: None of the 4 --

4 SENATOR HUTTO: 4.9 by the, by
5 the shareholders.

6 MR. MARSH: None of the -- the
7 4.9 is the actual cost we've spent on the
8 project to date.

9 SENATOR HUTTO: Okay.

10 MR. MARSH: Consumers have not --
11 our customers have not paid for any of that
12 cost. All that cash has come from bond sales
13 and stock sales on about a 50-50 basis. So
14 we've got \$4.9 billion, just roughly 2 1/2
15 million from shareholders and bondholders. We
16 worked very hard to do as -- get as much as we
17 could out of the parental guarantee from
18 Toshiba. That was supposed to be 1.7 billion.
19 Mr. Carter --

20 SENATOR HUTTO: Why should that
21 not go back to the ratepayers versus going back
22 to the shareholders?

23 MR. MARSH: That will not go back
24 to the shareholders. That will be used for the
25 full benefit of the customers. We have said

1 that since day one. So if we start with the 4.9
2 billion -- well, we got more than was in the
3 contract for the liquidated -- not the
4 liquidated damages -- the parental guarantee.
5 It was supposed to be 1.7. Mr. Carter and I,
6 along with our teams, worked hard, and we got
7 that to \$2.2 billion, and additional \$500
8 million.

9 So from our perspective, about
10 1.1 billion of that will be applied against that
11 4.9, so the customers don't have to pay that.
12 We also get a tax deduction for writing off the
13 abandonment costs, which is another \$2 billion.
14 That will reduce the unrecovered costs to \$2.2
15 billion from 4.9

16 SENATOR HUTTO: All right, but
17 I'm -- I may not be the best at math, but you
18 just told me that 4.9 had been paid by the
19 shareholders, at no cost to the ratepayers,
20 right?

21 MR. MARSH: By the shareholders
22 and the bondholders. That's the cash they put
23 up that we used to pay for the construction.

24 SENATOR HUTTO: Then you just
25 said that none of the 4.9 should be borne by the

1 ratepayers. Well, they weren't every bearing
2 any of the 4.9 to start with, were they?

3 MR. MARSH: Well, they, they
4 would have borne that had we gone forward, or if
5 you took a strict reading of the Base Load
6 Review Act, would require them to pay for that
7 cost going forward.

8 SENATOR HUTTO: I thought they
9 only had to pay for the interest at -- during
10 the construction phase.

11 MR. MARSH: They would. They
12 would pay for the interest during construction.

13 SENATOR HUTTO: Okay, so how
14 would they ever pay for that 4.9?

15 MR. MARSH: Once the project came
16 online, they would have paid for it through an
17 annual write-off through depreciation, which
18 would have been a cost that would have been
19 charged.

20 SENATOR HUTTO: But that assumes
21 that construction gets to completion. So
22 construction's not going to get to completion,
23 so the ratepayers, in theory, never owe any of
24 that 4.9, or do they?

25 MR. MARSH: They do under the

1 Base Load Review Act. As I said earlier, while
2 we did not expect to end up in abandonment, and
3 that was our least preferred option, the Base
4 Load Review Act does provide for recovery of the
5 abandonment costs from customers.

6 SENATOR HUTTO: Are you telling
7 me that it is your intention to seek those
8 costs?

9 MR. MARSH: No, that was the
10 example I was walking through. We started with
11 the 4.9. When you take off the Toshiba parental
12 guarantee and the benefit of taking those
13 deductions for tax purposes, it's down to \$2.2
14 billion. They have --

15 SENATOR HUTTO: That you would
16 seek back from ratepayers --

17 MR. MARSH: We --

18 SENATOR HUTTO: -- or it would be
19 borne by the shareholders?

20 MR. MARSH: What we would like to
21 do is find the appropriate parties to talk to to
22 look for opportunities to mitigate that,
23 possibly eliminate that going forward so
24 customers will not have to pay any more costs
25 associated with the nuclear plant.

1 SENATOR HUTTO: Except for the
2 fact that when they get next month's power bill,
3 it will still be higher than it would have been
4 if y'all had never undertook to either build or
5 abandon the plant. I mean, there -- my
6 question, I guess, is this. Is there any
7 scenario under which you see the rate for the
8 average ratepayer going down now, going
9 backwards to where it would have been before
10 y'all made the decision that just didn't pan
11 out?

12 MR. MARSH: I, I see the portion
13 of their bill associated with the carrying cost,
14 or the interest carrying cost, on the
15 construction going down to the extent we reduce
16 that \$4.9 billion. That's what's driving that
17 carrying costs, so as that \$4.9 billion comes
18 down, their -- the portion of their bill that's
19 being paid for those carrying costs will go
20 away.

21 That doesn't necessarily mean
22 their bill will come down because at the same
23 time that cost is coming down, we're spending
24 \$500 million a year for improvements or addition
25 to the system that are not nuclear related to

1 keep the system in operating condition, to meet
2 the growth on the system so we can continue to
3 provide the service we provide today.

4 But the portion related to the
5 carrying cost associated with the nuclear plant
6 will go down. Under my assumption, if it goes
7 down from 4.9 to zero, they would no longer be
8 paying any of those carrying costs if we make
9 that go away.

10 SENATOR HUTTO: But the petition
11 to the PSC for the rate increase was based on
12 the needs coming from the construction of the
13 nuclear power plant.

14 MR. MARSH: That's correct.

15 SENATOR HUTTO: So now that
16 that's not going to happen, are you saying you
17 do not need to petition the PSC to retain those
18 rates, that you'll just now, because you've got
19 these other costs, these other half-million
20 dollars in costs, you'll just continue to keep
21 the increased rates paid by the ratepayers
22 without going back to the PSC for approval?

23 MR. MARSH: No. They are the
24 body that ultimately has regulatory authority
25 over, over our rates. We will need to go back

1 with them. At the Senate's request, we withdrew
2 the filing we had with the Commission until we
3 decide the best way to go back and file that.
4 But ultimately, we will have to file a case with
5 the Commission because they have to make a
6 decision regarding the abandonment and how we
7 plan to treat rates and how that impact to
8 customers would be approved going forward. We
9 will have to go back to have that done.

10 SENATOR HUTTO: I understand that
11 you will have to go back, but my question is,
12 when you go back, you're not going back with a
13 request that the rates go back to
14 preconstruction rates and put the ratepayers
15 back at where they were before this -- this
16 issue that we wish never happened now happened.

17 You don't want to -- you're not
18 going to -- there's no scenario under which you
19 envision going back and making them back to
20 ground zero so that if their power bill's \$100
21 now but it used to be \$80, you don't foresee,
22 Let's put them back to 80, and then let's -- now
23 let's make our pitch to the PSC as to why it
24 ought to be greater than 80, based on these
25 other things. You don't have to do it that way?

1 MR. MARSH: I don't see that
2 going back to preconstruction rates immediately,
3 but I said earlier, the portion of their bill
4 attributable to the carrying cost will go down
5 as we begin to recover this \$4.9 billion,
6 whether that's from --

7 SENATOR HUTTO: It'll go down,
8 but their rates may not go down.

9 MR. MARSH: The portion
10 attributable to that will go down, but their
11 ultimate rate may not go down; that's correct.

12 SENATOR HUTTO: Okay.

13 MR. MARSH: Because it would be
14 paying for other investments to operate the core
15 business, not the nuclear construction.

16 SENATOR HUTTO: And those other
17 -- that's where I'm getting -- those other
18 investments, don't you have to go to the PSC on
19 those other investments, or are you just saying
20 you can just roll -- you already got your rates
21 up here, so you're just going to hang on to them
22 and use that money now to invest over here
23 without PSC approval?

24 MR. MARSH: The PSC issues us an
25 authorized rate of return, not a guaranteed

1 return, but an authorized rate of return, and if
2 we were to exceed that rate of return, they
3 would likely call us back in and say, we're
4 going to -- you need to show cause why we don't
5 lower your rates to get your return back down to
6 what we've authorized. With the continued
7 investment we're making, our returns today on
8 the non-nuclear business are below the
9 authorized returns that they have given us.

10 We believe, now that the nuclear
11 plant construction is -- has ceased that those
12 additions on an annual basis will give us
13 stability on our rates for a pretty good while,
14 based on the final Commission order that may
15 come out because the costs customers are paying
16 for those hearing costs on the investment will
17 be replaced with the cost of supporting the new
18 investments on our system to continue to operate
19 it in a safe and reliable manner.

20 SENATOR HUTTO: And those new
21 investments on your system that will allow you
22 to continue in a safe and reliable manner, do
23 those require PSC approval?

24 MR. MARSH: They, they would if
25 we filed a case, but the Office of Regulatory

1 Staff has access to come look at those amounts
2 at any time they want to challenge if they
3 wanted to.

4 SENATOR HUTTO: All right, so
5 you're saying absent your filing -- absent your
6 filing for review, you'll just continue to keep
7 the rates you're receiving now and use them like
8 you want to.

9 MR. MARSH: Well, I mean,
10 depending on what the dollars are spent for. I
11 mean, we're subject to audits by a number of
12 different folks, so I'm telling you, the books
13 would reflect amounts that represent appropriate
14 costs to operate the business on an ongoing
15 basis.

16 SENATOR HUTTO: All right. Mr.
17 Carter, let me go to you. Y'all have had how
18 many rate increases during the time of
19 construction?

20 MALE SPEAKER: Seven?

21 MR. CARTER: We have had --
22 during that -- from August of 2009 through 2015,
23 we've had five rate increases.

24 SENATOR HUTTO: Okay, and what
25 percentage has the rate increased, or what

1 amount has the rate increased?

2 MR. CARTER: Okay, overall,
3 during that period of time, the overall rate
4 increase to all customers was 15.7 percent, and
5 4.3 percent of that was for Summer 2 and 3.

6 SENATOR HUTTO: So you're saying
7 that roughly 11 percent, you probably would have
8 had anyway, just because of the cost of doing
9 business.

10 MR. CARTER: Now, the other --
11 the largest piece of the rest of it was from
12 load decline. In other words, our -- it's our
13 cost divided by what we think our sales will be.

14 SENATOR HUTTO: All right. And
15 Mr. Marsh, back to you. How many rate increases
16 have you had over the cost of construction that
17 were related to construction?

18 MR. MARSH: We have had --
19 started in 2009, so we should have had seven,
20 seven rate increases.

21 SENATOR HUTTO: Seven, and what
22 percentage have your rates gone up in those
23 seven increases together?

24 MR. MARSH: All together, I
25 believe it's approximately 20 percent.

1 SENATOR HUTTO: Twenty percent,
2 and of that 20 percent, how much of that has
3 been related to the construction of the --

4 MR. MARSH: I'm sorry, all of
5 that's related to construction, yeah.

6 SENATOR HUTTO: Twenty percent
7 related to the construction of power plants, so
8 --

9 MR. MARSH: We have not had a
10 general rate increase, I don't believe, since
11 2012.

12 SENATOR HUTTO: And under your
13 theory, you won't need one because you've
14 already got 20 percent that you can just hang
15 onto.

16 MR. MARSH: Well, it depends on
17 the investments that are made. If we were to
18 over-earn, as I stated earlier, we'd have to
19 back to the Commission and address that.

20 SENATOR HUTTO: All right. Mr.
21 Carter, is there any chance, now that you know
22 you don't have these future costs coming for
23 construction, that y'all will go back and
24 revisit your rates and lower them?

25 MR. CARTER: We will -- the board

1 will always be revisiting rates because that's
2 part of their statutory requirements. So what,
3 what I would say today, everything at Santee
4 Cooper is on the table. We certainly have to
5 take a look at costs-cutting measures. We have
6 to take a look at this defeasant, or defeasances
7 that we can do with that, and we also have to
8 apply the Toshiba settlement as well.

9 As you can see, the majority of
10 our increases have not been for Summer 2 and 3.
11 They've been for other things. We certainly
12 have some environmental compliance that we're
13 having to do now that will likely raise rates as
14 well.

15 SENATOR HUTTO: How much -- what
16 was your dollar amount that you get from the
17 Toshiba settlement?

18 MR. CARTER: \$976 million I
19 believe is our portion of it, our 45 percent.

20 SENATOR HUTTO: How do you plan
21 to budget that?

22 MR. CARTER: We -- actually, all
23 of it will be used to offset future costs
24 because in our cost model, there are no
25 shareholders, I believe as you're aware, so what

1 -- so if we get an offset to cost, a reduction
2 in cost, it's applied to the cost, and the
3 customers don't have to pay it.

4 SENATOR HUTTO: Okay. And, you
5 know, I heard you use the words, "Everything's
6 on the table," and one of things that, over
7 time, some of us have heard about and some have
8 resisted is the actual sale of Santee Cooper.
9 Is that on the table?

10 MR. CARTER: Selling Santee
11 Cooper, by statute, is not something I'm
12 authorized to consider.

13 SENATOR HUTTO: All right.

14 MR. CARTER: Or the board.

15 SENATOR HUTTO: All right, and --
16 but as a practical matter, is it saleable? It
17 -- can you take something that's a public
18 utility that enjoys the tax-free status and
19 other benefits of being a public utility and,
20 knowing that you're in a situation where you're
21 coming off a bad decision having been made or at
22 least a bad result -- might have been a good
23 decision but a bad result -- having -- is there
24 any way that it's marketable?

25 Even if we said, even if we, the

1 Legislature -- I know you said -- you can't talk
2 about it because you're not authorized to, but
3 if we came back next session and said, we think
4 we're going to change it, and we're going to
5 authorize the sale of Santee Cooper, is it
6 marketable under its current financial status?

7 MR. CARTER: You can -- I believe
8 that, you know, you can sell almost anything if
9 you can find a willing buyer. The question that
10 I would ask is, will customers be better off?

11 SENATOR HUTTO: And what's your
12 answer to that?

13 MR. CARTER: I don't believe that
14 they would under any scenario I've seen -- that
15 I can find one where they would be better off,
16 but if one is presented, then I would say that
17 the Legislature, who is the authorized body to
18 see it, would consider that. But I have not
19 seen that or seen that scenario, no, sir.

20 SENATOR HUTTO: One of the
21 challenges that we face, whether it's Santee
22 Cooper power or SCE&G power, is when we go to
23 attract businesses to move to South Carolina,
24 they look at a lot of things like workforce
25 development and you name it. They've got a

1 laundry list of things. But one thing they look
2 at is power costs, and so now, they're going to
3 be faced at looking at, y'all are up 20 percent,
4 and y'all are up 13 percent over these last few
5 years. That puts us at a competitive
6 disadvantage in recruiting new businesses, or am
7 I wrong in saying that?

8 MR. CARTER: I don't believe that
9 it does because one of the board's primary
10 focuses has been on being competitive, so our
11 power costs remain below the state average and
12 the Southeastern and certainly below the
13 national average. It is one component, but
14 there are other places where Santee Cooper has,
15 as the statutes provide for, support economic
16 development and bringing in industry. And to
17 another point if I may, Senator Hutto.

18 SENATOR HUTTO: Sure.

19 MR. CARTER: One of the things
20 that I would encourage everyone to consider is
21 preserving the asset that we have in Summer 2
22 and 3. We're a decade down the road, and today,
23 it doesn't look like a good decision, but a
24 decade from now, we could be right back in a
25 situation where we should go back to that

1 investment, and there are a couple of things
2 that I would point to that we will -- that we
3 may even know in just a few years that are very
4 important.

5 The first is that we'll see
6 whether the Chinese units actually start
7 operating and see how well they operate and
8 perform. We will watch our partners, our
9 colleagues to the south of us at Vogtle actually
10 finish -- they're going to try to finish these
11 units under the regulatory environment in the
12 United States, and we'll have a better idea of
13 exactly what that will take. It should
14 eliminate for whoever comes behind them the so-
15 called engineering and constructability issues.
16 They should be resolved once you get all the way
17 through a plant.

18 So those are things that I would
19 just immediately point to to say that I would be
20 careful to not preserve not this asset. I think
21 it would also -- I mean, you know, again, we've
22 talked about the, you know, what sort -- you
23 know, what are the politics of things of -- I
24 don't -- you know, you read so much in the paper
25 today after these storms about climate change.

1 we've seen climate change be hot. We've seen it
2 be cold.

3 At some point there's likely to
4 be regulation on carbon, and that's going to
5 change our market some. So I can tell you that
6 in my career and my experience, I have seen us
7 abandon a plant, a coal-fired plant, and come
8 back 11 years later and build it. I personally
9 worked on trying to sell it three times, and we
10 -- it's a good thing that we didn't because we
11 ultimately built it and it cost us a lot less.

12 SENATOR HUTTO: So I hear you on
13 that, so to that end, do you think -- I heard
14 that there were somewhere between 80 percent and
15 maybe 95 percent of the components and parts on-
16 site right now for construction of these two
17 facilities -- we should not try to sell those
18 off, or we should try and preserve those, and
19 are they the types of parts that will age
20 sitting out on the site -- I guess they're just
21 sitting out. I don't know if they're in a
22 warehouse or wherever they are, but can you keep
23 them out there and ten years from now, still use
24 them and they'd be the same quality part that
25 they were when they were constructed?

1 MR. CARTER: Yes, sir, if you
2 preserve them, and that's why I brought this up.
3 I think that's -- and to answer directly your
4 question, Senator Hutto, I believe that's a
5 decision that's going to have to be made. In
6 other words, the -- is it worth trying to sell a
7 component today and let's say get 50 or 60 cent
8 on the dollar because somebody in Turkey or
9 China or somewhere else is building these units,
10 the U.K. Those are the places where
11 Westinghouse is marketing this equipment, the
12 AP1000.

13 Is it worth it to sell that
14 component today and take those dollars, reduce
15 your carrying costs in them, and then go back
16 and purchase them later when you might actually
17 need them? So that is a decision at some point
18 that we will need to make, that we'll need to
19 make because that's another place in which we
20 can recover dollars and offset the costs to the
21 customers.

22 SENATOR HUTTO: When we -- when
23 you say that's a decision that "we'll" need to
24 make, is that the royal "we," us up here, too,
25 or is that a decision that you'll need to make?

1 MR. CARTER: Ultimately the
2 owners will have to make those decisions. I'm
3 not -- I can't speak for -- I'm not sure what
4 regulatory authority SCANA has. Ultimately for
5 our -- from our position, our board will have to
6 make the ultimate decision if we dispose of a
7 large asset. That's what our bond documents
8 require.

9 SENATOR HUTTO: So basically, it
10 would be somewhat like mothballing a ship. You,
11 you just -- you hold it in place with the idea
12 that at some point, you might need to pull it
13 back out.

14 MR. CARTER: Yes, sir, and I
15 would just caution us not to walk away from this
16 investment because I believe if we do, we'll
17 regret it. At some point, I believe these units
18 will be completed.

19 SENATOR HUTTO: And I'm, you know
20 -- I would like to share that optimism with you
21 because I think ultimately, it would be a good
22 thing, but how much will it cost to preserve the
23 plant?

24 MR. CARTER: I believe that our
25 costs look like -- right now, they're telling me

1 about \$5 million a year.

2 SENATOR HUTTO: Five million?

3 MR. CARTER: Yes, sir.

4 SENATOR HUTTO: Okay. And that
5 would be for warehouse and security and --

6 MR. CARTER: Yes, sir, and
7 there's some maintenance that has to be done.
8 Some of the engineers could speak to that
9 better, but, you know, you do have to take care
10 of it. I think some of the equipment has to be
11 rotated. You have to keep it dry.

12 SENATOR HUTTO: Okay.

13 MR. CARTER: There --

14 SENATOR HUTTO: So Mr. Marsh, or
15 your staff, how much will it keep y'all -- how
16 much will you project it would cost y'all to
17 preserve the plant and the parts that are out
18 there?

19 MR. MARSH: I'm going to need to
20 defer to Mr. Byrne on that question.

21 SENATOR HUTTO: Okay, Mr. Byrne?

22 MR. BYRNE: So what we've been
23 doing so far is, we have been doing exactly what
24 you've said and what Mr. Carter has recommended.
25 we've been putting the plant in a position where

1 it could restart, at least until the point where
2 we decide that we're not going to. So in
3 addition to warehouses -- and we've got two off-
4 site warehouses; we've got on-site warehouses;
5 I've got leases on off-site warehouses -- I'll
6 have some small amount for security, some small
7 amount for IT; you know, the areas where we
8 don't have physical security, you're going to
9 want some form of security. We're going to
10 need, as Mr. Carter pointed out, some things
11 need to be on turning gear or be rotated, some
12 motors will have to be rotated, so you'd have to
13 have a small staff in order to do that. And
14 then we'll need cover gasses for some things.

15 SENATOR HUTTO: All right. Your
16 estimated costs for that?

17 MR. BYRNE: I -- the estimate
18 that Mr. Carter gave of his portion of \$5
19 million a year, we would probably -- it --
20 that's their 45 percent, so that would say ours
21 is probably on the order of about six, so if --
22 that's \$11 million. I'd say that's probably a
23 little low, but it's probably in the ballpark.

24 SENATOR HUTTO: So somewhere
25 probably under \$15 million a year, we can

1 reserve this asset with the idea that eight,
2 ten, 12 years from now, we would have it ready
3 to construct as opposed to go back and rebuy the
4 parts at whatever the market rate is at that
5 point in time.

6 MR. CARTER: I certainly would
7 consider preserving it because there's a lot
8 invested there. Eventually, we -- and again,
9 I'm just relying on my career in this business
10 and see what I've seen. Eventually, what's
11 likely to take place, even if the load doesn't
12 grow significantly, we're going to have
13 regulations placed on our existing units, and
14 when I say "existing units," I mean not just the
15 coal ones, but likely the older gas units, and
16 they will get retired. There will be units
17 retired.

18 In fact, Summer Station, the end
19 of its life is right now currently, what, 2042,
20 so those dates -- in the utility business, a
21 decade is not a long time to plan. That's your
22 planning horizon.

23 SENATOR HUTTO: And does -- and
24 has SCE&G made a decision about whether the
25 conservation of the parts and plan on-site is

1 the best model, or whether selling them off and
2 recouping some money is the best thing?

3 MR. MARSH: I don't think we've
4 -- we have not made a final decision. We'll
5 evaluate that, and I would expect that would be
6 considered in our filing with the Commission.

7 SENATOR HUTTO: All right. Don't
8 y'all need to make the same decision?

9 MR. MARSH: I normally do, but I
10 think if we decide to go ahead, I mean, I think
11 we'll expect our partners -- normally we agree
12 on the prudent path forward, and if we did that,
13 we would certainly share in those costs under
14 our applicable percentages.

15 MR. CARTER: That's where the
16 word "minority" is operative.

17 SENATOR HUTTO: I hear you on
18 that. Okay. In order -- would you have to have
19 PSC approval, whatever your decision is?

20 MR. MARSH: Well, all of our
21 costs are ultimately approved by the Commission,
22 so if we included a number in our filing, we
23 would expect that would be addressed in the
24 hearing.

25 SENATOR HUTTO: And so you would

1 also have to include a number in there for your
2 annual warehousing and security and other
3 related costs if, in fact, that was the decision
4 made.

5 MR. MARSH: Yeah, it would be the
6 comprehensive cost, yes.

7 SENATOR HUTTO: I hear stomachs
8 growling, so I'll stop.

9 CHAIRMAN SETZLER: Well, y'all
10 said you didn't want to break for lunch. We're
11 going on. So are you through, Senator from
12 Orangeburg?

13 SENATOR HUTTO: I am.

14 CHAIRMAN SETZLER: Senator from
15 Georgetown.

16 SENATOR GOLDFINCH: I'm sorry. I
17 feel like I'm going back two hours because we've
18 got to get in line here, so I apologize for
19 going back this far, but I've heard a lot about
20 Westinghouse's deficiencies, but I want to know
21 more about why, sort of, the ratepayers and the
22 taxpayers weren't protected from Westinghouse's
23 deficiencies.

24 And one of the things that sticks
25 out to me, at least in the contract -- I'm --

1 and I'm -- by the way, I mean, I'm no
2 construction expert, but after talking to
3 numerous engineers and investigating to the best
4 of my ability, it seems to me like one of the
5 glaring deficiencies in the contract was an
6 owner's engineer, or the lack of an owner's
7 engineer. And I understand at some point in
8 time this idea of a CORB came about. Chairman
9 Lord, let me start with you. What does CORB
10 stand for, by the way?

11 MR. LORD: Construction Oversight
12 Review Board.

13 SENATOR GOLDFINCH: Okay. That
14 seems to be a new concept to everybody that I
15 talk to. It's certainly a new concept to me.
16 How did that CORB concept come about?

17 MR. LORD: Well, our board
18 started talking about the idea of having an
19 independent EPC manager involved. The Bechtel
20 Report had recommended something along those
21 lines also. And one of the proposals was to put
22 the CORB into place in lieu of that. And we
23 supported the CORB. We thought the CORB was a
24 good idea. Our issue with the CORB was, it was
25 not going to be on-site every day. It would

1 meet monthly, and they would be people all over
2 the country that couldn't react in real time to
3 issues and problems. So we thought there needed
4 to be more day-to-day, onsite EPC management.

5 SENATOR GOLDFINCH: "We" as in
6 Santee Cooper?

7 MR. LORD: Santee Cooper board.

8 SENATOR GOLDFINCH: So was the
9 CORB not a good substitute for an on-site,
10 third-party, owner's engineer?

11 MR. LORD: I think we would have
12 liked both. Because the CORB had some very
13 well-qualified people that added good insight at
14 a high level, and I think having that high-level
15 oversight and also the day-to-day, on-site
16 oversight would have been beneficial.

17 SENATOR GOLDFINCH: Okay, so we
18 had oversight in the form of how many people,
19 four, five people?

20 MR. LORD: CORB?

21 SENATOR GOLDFINCH: Yes.

22 MR. CARTER: Six maybe. Six,
23 isn't it?

24 MR. LORD: Six?

25 SENATOR GOLDFINCH: Okay, so we

1 had oversight in the form of six retired
2 engineers that met monthly; is that correct? I
3 don't know who needs to answer. I'm sorry, I'm
4 --

5 MR. BYRNE: Not all of the CORB
6 members were retired, so some of them were, you
7 know -- had active employment. A number of them
8 had experience in the last new nuclear build, or
9 the last nuclear build, which was the Watts Bar
10 2 project in Tennessee. So that board came in,
11 met, roughly, quarterly, did give -- output some
12 recommendations.

13 One of the recommendations lately
14 was to add resources in, I think, three specific
15 areas, and that's something that we are moving
16 to do when Westinghouse -- or Toshiba announced
17 their big impairment of \$6.2 billion and we
18 started our assessment as to whether or not the
19 project was viable, so we put a hold on that.

20 SENATOR GOLDFINCH: Okay.
21 Chairman Lord, you mentioned that Santee Cooper
22 wanted an owner's engineer. Sounded like SCANA
23 did not. Do you know why that was the case, and
24 what were those negotiations like?

25 MR. LORD: I wasn't involved in

1 the day-to-day negotiations. We thought -- we
2 had some board members that had experience with
3 big construction, and they just thought it was a
4 model that was beneficial, that it would help
5 SCANA and help Santee Cooper to have an
6 independent EPC manager running the project.

7 SENATOR GOLDFINCH: would it have
8 changed the outcome?

9 MR. LORD: I don't know that.

10 SENATOR GOLDFINCH: would we have
11 known these issues sooner?

12 MR. LORD: Possibly, but again, I
13 don't, I don't know that. I think -- we didn't
14 learn the extent of the problems until
15 Westinghouse filed for bankruptcy. As has been
16 said by both sides, we knew there were problems
17 all along. We pushed back on those problems,
18 things got corrected, they moved forward, but
19 then once the bankruptcy was filed, we had
20 access to information that we had never seen
21 before, and we realized that the schedule was
22 way off, the cost was way off, the productivity
23 was way off, and then that's when we really
24 learned about it. So I don't know if an
25 independent manager would have been able to find

1 out what we couldn't find out during the
2 process.

3 SENATOR GOLDFINCH: who asked for
4 the Bechtel Report, or who asked for Bechtel to
5 come in and do an investigation?

6 MR. LORD: I think we initially
7 asked for that, but then it was something that
8 the -- both sides did jointly.

9 SENATOR GOLDFINCH: was that in
10 compromise for not having an owner's engineer?

11 MR. LORD: No. It was for two
12 reasons. One, the discussion of suing
13 Westinghouse was one that we took up at every
14 board meeting, and I know that Lonnie and Kevin
15 talked about it often also. So we felt like we
16 needed that type of evidence and proof if we
17 were going to go after Westinghouse for their
18 deficiencies.

19 Our board also wanted an
20 independent audit of what was going on. We knew
21 there were problems. We knew there were issues.
22 We thought that because Bechtel, their
23 reputation in the marketplace, their experience
24 in building big things like this, they could add
25 some insight that would help both sides of this

1 process.

2 SENATOR GOLDFINCH: Okay. So my
3 understanding was that when the owner's engineer
4 -- when it was realized there was no owner's
5 engineer in the contract, that there was a
6 dispute between Santee Cooper and SCANA; is that
7 correct? I mean, I think you've already
8 answered that question, but I want to focus on
9 that for just a minute and make sure I'm clear
10 on the answer.

11 MR. LORD: Well, we wanted it,
12 and they didn't.

13 SENATOR GOLDFINCH: Okay.

14 MR. LORD: So if that's a dispute
15 --

16 SENATOR GOLDFINCH: And --

17 MR. LORD: -- and they presented
18 the CORB as an alternative to what we
19 (INDISTINCT).

20 SENATOR GOLDFINCH: But go back
21 for me for just a second. What was the dispute?
22 Why do -- does Santee Cooper want an engineer,
23 and why does SCANA not want an owner's engineer?

24 MR. LORD: Well, they -- SCANA
25 felt that the CORB would be a better mechanism

1 to give independent oversight, and we thought
2 having an engineer would be --

3 SENATOR GOLDFINCH: Okay, so that
4 -- I think that's maybe where the disconnect is.
5 My understanding was that the CORB was a group
6 that was comprised -- well, it was a group that
7 was sort of like the compromise. We want it.
8 They don't. This is the compromise. It's not
9 -- my understanding was not that the CORB was
10 their choice, their first choice; is that
11 correct?

12 MR. LORD: I don't the answer to
13 that.

14 SENATOR GOLDFINCH: Could I get
15 an answer from SCANA on that?

16 MR. BYRNE: Yeah. We -- there
17 are different models. One of the models is an
18 owner's engineer model, and if you are in a
19 traditional EPC role where you don't have a lot
20 of your personnel doing oversight, then you may
21 want to employ an owner's engineer, but what we
22 did was, we hired a staff to oversee the
23 contractors, so they were our owner's engineer,
24 just that, as opposed to an outside contractor,
25 we hired in the expertise that we thought we

1 needed to oversee the contractor.

2 when the issue of third-party
3 oversight came up, I took a look around at other
4 large nuclear construction projects, and that's
5 where we came up with the concept of the CORB.
6 And the CORB, one, would give some real-time
7 experience from people who were actually -- had
8 experience building nuclear plants, but also
9 would allow you the flexibility to adapt that as
10 the phases of the project that you were in
11 changed.

12 So, you know, if you were going
13 to go from, basically, a ground-clearing project
14 to a structural project to -- you know, there
15 would be phases of licensing in there with the
16 Nuclear Regulatory Commission, you're going to
17 get into testing, so we wanted the ability to
18 change that CORB as the phases of the project we
19 were in changed.

20 SENATOR GOLDFINCH: Okay, so
21 SCANA had a number of employees on-site that you
22 thought were sufficient -- I think Mr. Marsh's
23 testimony was that they were good and "competent
24 management team" on-site.

25 MR. BYRNE: Yeah, we had probably

1 630, 40, 50 employees at the time that we
2 stopped the construction. A lot of those would
3 have been people that we were licensing as
4 operators or training as maintenance
5 technicians. But about 200 of them were
6 associated with oversight in some form or
7 function, quality assurance, quality controls.
8 So we had a project management organization, or
9 PMO, that was about a dozen folks, all of whom
10 had experience in construction and/or
11 megaprojects and/or nuclear.

12 SENATOR GOLDFINCH: well, it's
13 certainly not your duty as SCANA to take care of
14 Santee Cooper's interests in the project, at
15 least not -- maybe not legally, maybe
16 practically, but what about that model protects
17 Santee Cooper and its ratepayers?

18 MR. BYRNE: I think the
19 protections of that model worked equally well
20 for both owners. I don't --

21 SENATOR GOLDFINCH: The SCANA
22 management model?

23 MR. BYRNE: well, I -- yeah, I
24 believe -- we believe that the SCANA management
25 model, along with the Construction Oversight

1 Review Board, did, did pay us benefits.

2 SENATOR GOLDFINCH: But you
3 didn't want --

4 MR. BYRNE: You know, again, it
5 wasn't a case of, we didn't -- we weren't aware
6 of the problems or the issues and were not
7 trying to push the contractor to resolve those
8 issues. And when they wouldn't do it or
9 seemingly couldn't do it, we worked with them.
10 We sent them, you know, what we would call
11 project letters where we would voice our
12 disapproval.

13 We met with the CEOs of those
14 companies on a quarterly basis with our CEO so
15 that we could hash out some of the issues. We
16 did start to do things like withholding payment,
17 so I think we did what we could do, short of
18 cancelling the project under the auspices of
19 this, so an independent person, an independent
20 engineer, an owner's engineer, whatever you want
21 to call it, I don't think that was going to
22 highlight the issues for us any differently than
23 we already knew the issues to be.

24 SENATOR GOLDFINCH: But you would
25 agree with me --

1 MR. BYRNE: I also don't think
2 that the -- an independent engineer was going to
3 keep Westinghouse out of bankruptcy, and I want
4 to go back to this. If Westinghouse hadn't
5 declared bankruptcy, then we'd still be
6 operating under a fixed-price, EPC contract, and
7 we'd still be constructing.

8 SENATOR GOLDFINCH: I think we
9 all agree with that. The question is, how far
10 back should we have known and backed out? But
11 that's not my question. Wouldn't you agree with
12 me that if the roles were reversed and Santee
13 Cooper was the majority shareholder, SCANA was
14 the minority shareholder, and you guys go to
15 Santee Cooper and say, Hey, we want somebody to
16 protect our interests, we want an owner's
17 engineer on-site, Santee Cooper says, Sorry, go
18 pound sand, we're going to put our own people
19 on-site, and then all of a sudden we come up
20 with some kind of a scheme where a few engineers
21 look at this project every month rather than
22 having an on-site engineer there every single
23 day, doesn't that seem like that's -- it's just
24 a, a problem waiting to happen? I would -- just
25 help me through that problem.

1 MR. MARSH: well, well first of
2 all, we had a strong relationship with Santee,
3 and, you know, we were not fighting over, you
4 know, which way to go. It was clear from
5 communication from the board and Lonnie that
6 they had strong feelings about different options
7 for oversight, which concluded an owner's
8 engineer. We, we met with the board, we heard
9 their concerns, we went back and talked about
10 what we thought would be the best solution from
11 our perspective, but -- and we decided to put
12 the CORB in place and relay that to the board,
13 but the CORB was not the end of the commitment.

14 The commitment from the CORB as
15 they went forward -- and I think I might have
16 said this earlier -- was, if we saw areas where
17 they believed we needed additional resources,
18 that I had asked them to inform us as to whether
19 or not that should be a contractor, someone to
20 come in, a contractor or a consultant to come in
21 over a short period of time and address the
22 need, and then they could exit, or if we
23 physically need to add someone to the project
24 team, we would have considered that and done
25 that if it were appropriate.

1 So the CORB was not intended to
2 be the end of the process. It was oversight
3 where we attracted industry leaders,
4 specifically from the Watts Bar 2 Plant at TVA,
5 which was the most recently completed project
6 from a nuclear perspective, even though it
7 wasn't Part 52, that they could help us
8 determine, specifically, where did those
9 resources need to be and go about trying to fill
10 those gaps. And we were about doing that until
11 the announcement came out in December that
12 Toshiba had its financial problems, and then we
13 shifted to evaluation of the project going
14 forward.

15 SENATOR GOLDFINCH: And Mr.
16 Marsh, do you think that that appropriately
17 protected Santee Cooper's interests?

18 MR. MARSH: We believe it gave us
19 appropriate information to evaluate the project
20 and add resources where necessary to see it to a
21 successful conclusion, yes, sir.

22 SENATOR GOLDFINCH: well, you
23 said "we." You, you mean Santee, correct?

24 MR. MARSH: We, the SCANA team.
25 That was our assessment.

1 SENATOR GOLDFINCH: Okay, so I
2 want to draw your attention, if you don't mind,
3 to page 16 of the Bechtel Report. At the bottom
4 of the report -- I'm just going to read it to
5 you to save some time. "The consortium's
6 project management team approach does not
7 provide appropriate visibility, nor does it
8 provide accuracy on project progress and
9 performance. There's a lack of accountability
10 in various owner and consortium departments.
11 The consortium's lack of project management
12 integration is a significant reason for the
13 current construction installation challenges.
14 The approach taken by the owners does not allow
15 for real-time appropriate costs and schedule
16 mitigation." How is that wrong?

17 MR. MARSH: If you'll permit me,
18 I'd like to ask one of our individuals from the
19 site that was responsible for addressing these
20 concerns to give you some more detail on that.
21 I want to ask Mr. Kyle Young. If you need to
22 swear him in before we have him testify, we'll
23 be happy to do that.

24 CHAIRMAN SETZLER: Mr. Young, if
25 you would raise your right hand, please, sir.

1 Do you swear the testimony you're about to give
2 is the whole truth and nothing but the truth, so
3 help you God? Okay, proceed on.

4 SENATOR GOLDFINCH: But I read to
5 you an observation from the Bechtel Report at
6 the bottom of page 16. I'll be happy to provide
7 it to you, but basically it says, and this is my
8 words summarizing what the Bechtel Report says.
9 Y'all didn't have what it takes to finish this
10 project. If you'd like to read it in detail, I
11 can hand it to you.

12 MR. YOUNG: (INDISTINCT) Okay,
13 thank you. Yep. Am I on now?

14 SENATOR GOLDFINCH: You're on
15 now. Yep, thank you.

16 MR. YOUNG: Great. Great. Just
17 to give you a little background on myself, I've
18 been on the project -- was hired in for the
19 project in 2008. I was a supervisor for the
20 nuclear island area, which was a key component
21 of the construction, and then eventually placed,
22 after the Bechtel Report, in a couple of
23 positions to increase our project management
24 presence.

25 One of those was that after the

1 Bechtel folks were on-site and formed that
2 observation, the contract was fixed, as we
3 discussed. With that fixed-price contract came
4 the exit of CB&I from the consortium
5 arrangement, so I think that addressed a lot of
6 the concerns that Bechtel saw with the
7 arrangement, internal to the consortium, where a
8 designer such as Westinghouse, who was also
9 responsible for a portion of the procurement,
10 and a constructor such as CB&I, who was
11 responsible for some of the commodity
12 procurement and the installation, often had
13 conflicts and would argue about who's
14 responsible for each piece of that.

15 Then we were able to assign
16 increased oversight and work with Westinghouse
17 as they brought in Fluor, work with their
18 transition team. We actually installed a
19 fulltime team working with them in November
20 through December of 2015, working with them
21 every day on the plans they were going to make
22 to go forward. And then, in 2016, we put in
23 place our full, daily, fulltime PMO, which
24 consists of a dozen personnel to help
25 Westinghouse guide and direct their work.

1 SENATOR GOLDFINCH: Okay, so you
2 were the project manager, project leader, I
3 guess. Is the -- what's the right term?

4 MR. YOUNG: Project manager, yes.

5 SENATOR GOLDFINCH: Okay, project
6 manager for the project. All right, so did the
7 CORB ever come and interview you to check on
8 your fitness and your development of the
9 project?

10 MR. YOUNG: Yes, sir.

11 SENATOR GOLDFINCH: Okay, and,
12 and did you ever get any -- other than the
13 report that was produced at the end that we've
14 all seen, did you ever get feedback, daily
15 feedback, weekly feedback, monthly feedback on
16 what needs to be done, what the deficiencies
17 were?

18 MR. YOUNG: I got real-time
19 feedback from the CORB. When they were on-site,
20 during their interviews, they would not only
21 just interview myself. They would interview
22 Westinghouse personnel throughout the course of
23 2016. I was at a number of meetings where we'd
24 have the Westinghouse personnel, personnel from
25 our PMO organization, including myself, as well

1 as the CORB members, and they would provide us
2 feedback either during the meeting, right after
3 the meeting.

4 A lot of it had to do with
5 Westinghouse living up to their plans that we
6 had made during that late 2015 process where
7 Westinghouse brought in Fluor, brought in their
8 personnel from Fluor that had large EPC project
9 experience from worldwide projects, had nuclear
10 background, and it would focus on the reasons
11 why Westinghouse was not executing those plans.

12 SENATOR GOLDFINCH: How often did
13 that occur between two thousand and, I don't
14 know, '12, 2013, and when you abandoned the
15 project?

16 MR. YOUNG: Well, the CORB was
17 formed in 2016.

18 SENATOR GOLDFINCH: 2016, right,
19 but how -- thank you. How often -- so between
20 -- when, when did you start the project?

21 MR. YOUNG: I started in 2008.

22 SENATOR GOLDFINCH: You started
23 in 2008. Between 2008 and 2016, who was
24 responsible for your oversight?

25 MR. YOUNG: Who was responsible

1 for my oversight?

2 SENATOR GOLDFINCH: Yes, sir.

3 MR. YOUNG: We had a quality
4 assurance organization within the project that
5 -- it forms an independent oversight. That's a
6 regulatory-required group that has to exist for
7 our quality assurance plan that we have to
8 submit to the Nuclear Regulatory Commission.
9 Then, of course, our senior management forms a
10 number of groups. There was a board meeting; I
11 think it was called the Executive Steering
12 Committee.

13 SENATOR GOLDFINCH: What, what
14 was the name of the quality assurance?

15 MR. YOUNG: It's the Quality
16 Systems Department that has quality assurance
17 auditors employed by SCE&G.

18 SENATOR GOLDFINCH: And, and who
19 is, who is the project manager in South Carolina
20 for Westinghouse?

21 MR. YOUNG: Who is the project
22 manager in South Carolina for Westinghouse?

23 SENATOR GOLDFINCH: Yes.

24 MR. YOUNG: That changed over the
25 course of time. At the end of the project, they

1 had hired a director of their project management
2 organization.

3 SENATOR GOLDFINCH: who was that?

4 MR. YOUNG: That was Rod
5 Cavalieri.

6 SENATOR GOLDFINCH: Rod
7 Cavalieri, okay. All right, so over the course
8 of -- between 2008 and 2016, Santee Cooper --
9 or, I'm sorry, SCANA essentially had oversight
10 over SCANA is what I'm hearing. I know you said
11 you had a quality assurance company come in and
12 check you out, but no real oversight other than
13 SCANA managing SCANA at that point in time,
14 right?

15 MR. YOUNG: We had oversight from
16 a lot of different regulatory authorities. We
17 had oversight at the state level from the Office
18 of Regulatory Staff.

19 SENATOR GOLDFINCH: I don't mean
20 regulatory oversight. I mean engineering
21 oversight.

22 MR. YOUNG: From an engineering
23 oversight perspective, I mean, our own quality
24 assurance department --

25 SENATOR GOLDFINCH: Okay.

1 MR. YOUNG: -- who is an
2 independent body by regulation, had oversight of
3 all our oversight processes. We had an annual
4 audit. We had specific surveillances that they
5 would do. They would come in and look at our
6 procedures of processes, give us feedback on
7 improvement. They also reviewed the plan that
8 we had for oversight; gave specific feedback and
9 concurrence to that plan.

10 SENATOR GOLDFINCH: So SCANA's
11 quality assurance department over -- gave y'all
12 oversight.

13 MR. YOUNG: Right, and that's a
14 quality assurance model that's employed at all
15 nuclear power plants.

16 SENATOR GOLDFINCH: Right, and
17 did they ever provide any of those
18 recommendations, any of the developments to
19 Santee Cooper? Was any of that information ever
20 shared to the other side?

21 MR. YOUNG: Yes. All those
22 reports were filed in our project's data base,
23 and the Santee Cooper representatives on-site
24 had access to that, to my understanding.

25 SENATOR GOLDFINCH: Okay, and how

1 many of them were on-site?

2 MR. YOUNG: During the course of
3 the project, they had a daily representative,
4 and then eventually -- I don't remember the time
5 frame. Maybe in 2016, I think, they increased
6 that by one, and then they had a separate daily
7 person that was advising and working with our
8 operational readiness staff, so I think --

9 SENATOR GOLDFINCH: So one to
10 three people at most?

11 MR. YOUNG: One to three people
12 at any point in the project, plus an off-site
13 person designated.

14 SENATOR GOLDFINCH: Okay. I
15 think that's all I have for the -- for you, so
16 -- what was your name again, sir?

17 MR. YOUNG: It's Kyle Young.

18 SENATOR GOLDFINCH: Kyle Young.
19 Thank you, Mr. Young.

20 CHAIRMAN SETZLER: All right, Mr.
21 Young, if you would, give us your address and
22 your telephone number for the record, please,
23 sir.

24 MR. YOUNG: Sure. My address is
25 565 Charles Court in Lexington, South Carolina,

1 and my telephone number is 803-941-9811.

2 CHAIRMAN SETZLER: Okay, and do
3 you have the contact information for Mr.
4 Cavaliere? Is that what you said?

5 MR. YOUNG: Yes.

6 CHAIRMAN SETZLER: Do you have
7 his contact information?

8 MR. YOUNG: Not on me right now,
9 but I can --

10 CHAIRMAN SETZLER: would you
11 provide it to the staff, please, sir?

12 MR. YOUNG: Yes, sir.

13 CHAIRMAN SETZLER: Okay. All
14 right, next is the Senator from Fairfield.
15 would you gentlemen like to take about a five-
16 minute break to -- okay. We'll take about five
17 -- we'll reconvene at 20 minutes till 2.

18 Okay, let's call the committee
19 back to order. Senator from Georgetown, I
20 believe you were not through. I misunderstood.
21 I thought you were through.

22 SENATOR GOLDFINCH: Just a couple
23 more questions, Mr. Chairman, unless they
24 inspire me to go further.

25 CHAIRMAN SETZLER: It would be

1 prudent for them not to do that.

2 SENATOR GOLDFINCH: It would be
3 prudent -- exactly. Same question for both
4 Santee Cooper and SCANA. Santee Cooper can
5 start us off. Real simple. Sounds like "The
6 Dating Game" almost. What did you want to
7 change, when did you want to change it, and why
8 didn't you get the change? Go.

9 MR. CARTER: That's a very broad
10 question.

11 SENATOR GOLDFINCH: It is.

12 MR. CARTER: I'm assuming we're
13 just talking about Summer 2 and 3. I couldn't
14 give you a comprehensive list just sitting here.
15 We've talked about, I would say, what was the
16 biggest, I think, biggest difference of opinion
17 about how to manage the project, but we were the
18 minority partner. We could -- as I said
19 earlier, we could encourage, we could recommend,
20 we could cajole, all the kinds of things you can
21 do to try to push and advance the project, but I
22 would say that's probably the most significant
23 one.

24 But there would have been other
25 things -- but I think to ask that question

1 individually, even within the Santee Cooper team
2 -- I'll speak to it -- people have different
3 ideas, and you ultimately choose. You discuss
4 them, you debate, them, and you choose the one
5 that you think is best. And so there would have
6 been -- I'm sure that there are others.

7 If we go back and look, there
8 would be other things where different people
9 would have had different ideas about how to do
10 them, but I think the project -- the site
11 management, the project management was probably
12 the biggest one, and I'm thinking, with the
13 board, that's the primary one that got elevated
14 to the board that we just didn't agree on.

15 SENATOR GOLDFINCH: That doesn't
16 really require an answer as to when unless you
17 can pinpoint when that became very evident, and
18 why didn't it change?

19 MR. CARTER: well, we certainly
20 asked for it. We were concerned about it before
21 the CORB report. And for at least -- I'm going
22 to speak for me. From my perspective, I felt
23 like we could have better -- for what we were
24 investing and because of the problems that we
25 were seeing, that we could have better on-site,

1 day-to-day management to keep the pressure on
2 Westinghouse and keep the information more
3 timely flowing to the tops of each organization,
4 to the top executives of each organization, even
5 up to Mr. Marsh and I so that we could actually
6 respond quicker with specific suggestions to
7 Westinghouse.

8 Now, there are two caveats to
9 that that always got -- that's Lonnie's
10 assessment, and he's already said he wasn't a
11 construction expert. So I'm coming at it, sort
12 of, as I would say, from a layperson trying to
13 apply common sense to it. There were two things
14 that I was reminded of. One, the lawyers would
15 tell me: Be careful you don't step over the line
16 and start directing the work of your EPC
17 contractor because that'll get you into trouble.
18 And the other thing that was pointed out to me
19 was, well, look, Southern Company's building the
20 Vogtle Plant. They got a much bigger staff,
21 much larger staff of nuclear people, and they're
22 not doing any better than Summer.

23 And so, so I don't think it was
24 -- I don't -- people can have differences of
25 opinion. I would have done it differently. I

1 would have staffed it differently. But I can't
2 sit here and say that the approach that was
3 taken was wrong. There's a -- you know, there's
4 a difference in that. It was just a different
5 approach, and it would be hard for me to present
6 evidence today that would say, well, we would
7 have gotten a different outcome. I would have
8 felt better about it, though; I can tell you
9 that.

10 SENATOR GOLDFINCH: Okay. Mr.
11 Marsh, same question.

12 MR. MARSH: Certainly. Again,
13 it's a broad question, but I think -- I jotted
14 down a few things here that I -- we did want to
15 have changed as we went through the project.
16 One was the portion of the contract that was
17 fixed. That was something we felt like would
18 protect our customers. When we started the
19 project, we had about 52, 53 percent of the
20 contract that was fixed, or firm, and as we took
21 opportunities to change that, I think we made
22 decisions that did protect our customers.

23 One of the major issues that we
24 talked about surfaced early on as we started
25 construction in that 2011, 2012 time frame was

1 the, was the modules. The modules were the
2 largest project -- problem we had early in the
3 project. We worked with them carefully. We
4 recommended that they go to different vendor
5 sites and not just keep that all in Lake
6 Charles, Louisiana. We felt like that was a
7 problem.

8 when they didn't respond to our
9 recommendations, the next opportunity we had at
10 one of our negotiations in the change order, we
11 fixed that component of the contract. So even
12 though they didn't make the changes immediately
13 that we recommended, we protected our customers
14 from additional cost increases associated with
15 that.

16 I thought it was important that
17 CB&I exit the project. We were very close to
18 litigation at that point. We had worked hard to
19 avoid that. It was clear that they were not
20 performing, and they were also not getting along
21 with their partner, consortium partner. So when
22 Westinghouse approached us about them
23 potentially exiting the project and we saw that
24 Fluor was coming onboard, we saw that as a very,
25 very positive change for the project.

1 The other thing that we were
2 pushing for that we actually never got -- we
3 mentioned this earlier -- was the new schedule.
4 When Fluor and Westinghouse took over the
5 project or started work on the project in late
6 2015, we implored them to get this new schedule
7 done so we could evaluate any potential impacts
8 on the project. The fact that they didn't
9 complete that was very disappointing.

10 Those are some of the key
11 changes. I mean, this was a large project. We
12 knew there would be challenges --

13 MALE SPEAKER: Could you talk
14 closer to the mic?

15 MR. MARSH: I'm sorry. This was
16 a large project. We knew and told the
17 Commission back in 2008 when we had it approved
18 that we anticipated there would be challenges on
19 a megaproject of this size, and we did our best
20 to address those, making prudent decisions along
21 the way. We worked with our partner. We
22 discussed openly the challenges that we had.
23 Any major changes in the project, I think from a
24 cost perspective -- if I remember right, in
25 excess of a million dollars, or if we had a

1 contractual amendment -- did require Santee's
2 approval, so they were in the field with us,
3 working on those issues when they arose.

4 SENATOR GOLDFINCH: All right.
5 Last question from me regards to the Base Load
6 Review Act. Two-part question: what -- let me
7 start with this one. What happens if we repeal
8 it?

9 MR. MARSH: That's probably a
10 legal question. My understanding or my belief
11 is that the costs that have been prudently
12 incurred and prudently included in rates under
13 the Base Load Review Act would remain intact. I
14 know there have been efforts to repeal the Base
15 Load Review Act. We participated in some of
16 those discussions, I believe it was late last
17 fall, and have indicated that we would not
18 oppose an action to repeal it as long as we're
19 grandfathered under the provisions of the act.
20 But I can't speak legally as to what all those
21 arguments might be.

22 SENATOR GOLDFINCH: Well, I mean,
23 you raise an interesting question, and I -- so I
24 just pulled it up. It wasn't in my notebook,
25 unfortunately, and part of the Base Load Review

1 Act -- it's 58-33-225(G) -- says, in part,
2 "...recovery of capital costs and the utility's
3 cost of capital associated with them may be
4 disallowed only to the extent that the failure
5 by the utility to anticipate or avoid the
6 allegedly imprudent costs, or to minimize the
7 magnitude of the costs" -- or to minimize the
8 magnitude of the costs -- "was imprudent
9 considering the information available at the
10 time that the utility could have acted to avoid
11 or minimize the costs."

12 Is this an issue for y'all? Or
13 once you passed the prudence tests -- I know
14 everybody's sick of talking about prudent,
15 prudence -- but once you passed the prudence
16 test, are we now -- I mean, have you discussed
17 this internally?

18 MR. MARSH: I mean, you know,
19 doing what we could to avoid or minimize the
20 cost to consumers, I believe we did that with
21 the actions we took throughout the project.
22 Those issues are addressed when we make our
23 filings with the Commission, reviewed by the
24 Office of Regulatory Staff, and negotiated with
25 the other intervening parties before we get

1 before the Commission if there is a settlement
2 agreement. So I believe we have met the
3 prudence test, based on the costs we incurred
4 and the efforts that we took to minimize costs
5 on the project and ultimately to our customers.

6 SENATOR GOLDFINCH: Thank you,
7 sir.

8 CHAIRMAN SETZLER: All right,
9 next is the Senator from Horry.

10 SENATOR RANKIN: Thank you, Mr.

11 --

12 CHAIRMAN SETZLER: Senator from
13 Georgetown, you were through, correct?

14 SENATOR GOLDFINCH: Yes, sir.

15 CHAIRMAN SETZLER: Okay.

16 SENATOR RANKIN: Thank you, Mr.
17 Chairman. Mr. Marsh, I -- there are three
18 narratives floating around out there, and I want
19 you to help me to debunk these narrative.
20 Perhaps they're true; perhaps they're not true.
21 The first narrative is that SCANA purposely
22 withheld information contained in the Bechtel
23 Report from the regulatory authorities, ORS,
24 PSC, and any and every other governmental agency
25 that has been charged with oversight of this

1 investigation. And what gives rise to that --
2 and, again, this is a question that I'm going to
3 let you, again, affirm or debunk -- in the
4 Bechtel Report, page 3, it lists, and Bechtel
5 specifically cites that it was not provided the
6 information that it perhaps needed, and I'll
7 quote:

8 "Some data and information was
9 provided electronically by the owners and
10 consortium. For the majority of the data, a
11 single hard copy was placed in a reading room at
12 the site, and no additional copies could be
13 made. This limited the ability of Bechtel team
14 to fully assess the information, i.e. or e.g.
15 engineering schedules. Further, many documents
16 that contained sensitive information -- contract
17 terms, financial data details, etcetera -- were
18 redacted."

19 The other point that perhaps
20 gives rise to that is that SCANA purposely --
21 again, this is the narrative -- hid behind a law
22 firm to prepare and engage Bechtel and did not
23 want to provide this document to the public,
24 and, in fact, when we met in August, Santee
25 Cooper wanted to provide it, wanted the

1 information released, but you did not. So to
2 that narrative, did SCANA purposely withhold the
3 dire condition that this contract and this
4 project had from South Carolina ORS, PURC, PSC,
5 any and everybody?

6 MR. MARSH: Well, the report was
7 prepared by outside counsel in anticipation of
8 litigation and is therefore confidential. As
9 you've heard us report before, we believe the
10 problems that were identified in the report were
11 known to us. Mr. Carter also testified earlier
12 today that the Bechtel Report was not news. We
13 felt like we were on the verge of having
14 litigation with Westinghouse and still may be
15 engaged in Westinghouse litigation based on some
16 of the information we confirmed and validated in
17 the report.

18 I don't believe we misled or did
19 not share information with the Office of
20 Regulatory Staff or others. We've actually gone
21 back and prepared a document that I'm happy to
22 leave with this group that identifies problems
23 that were identified in the Bechtel Report and
24 where we addressed those in testimony before the
25 Commission or in information provided in our 34

1 quarterly reports to the Public Service
2 Commission and Office of Regulatory Staff that
3 are required under the Base Load Review Act.

4 So we believed the issues were
5 out there and were being discussed. We didn't
6 see anything in that report that was material
7 that they were not aware of or had access to our
8 people in their interviews to talk to and
9 certainly didn't intend to hide behind the
10 report. The report was prepared in preparation
11 for potential litigation, and that -- I don't
12 know what to say other than that was the
13 characterization of the report. We still
14 believe it's a protected document. Even though
15 a copy has been provided to you, and we're happy
16 to address the questions, we still believe it's
17 a confidential report prepared in anticipation
18 of litigation.

19 The comment with respect to
20 Bechtel being limited to information in a
21 reading room -- and I'll ask some of my people
22 on-site to verify this if I'm not correct -- my
23 understanding is, there's certain information
24 that Westinghouse was reluctant to share with
25 Bechtel, their competitor. I mean, I can

1 understand them not wanting to share their trade
2 secrets or certain documents that might have key
3 terms and conditions redacted because they were,
4 they were very careful to protect their
5 information.

6 SENATOR RANKIN: But let me
7 interrupt you. You and your attorney engaged
8 Bechtel. Westinghouse did not, correct?

9 MR. MARSH: I thought you were
10 talking about in the report when they said they
11 didn't have access to information.

12 SENATOR RANKIN: This is -- this
13 report is being produced to your law firm, or a
14 law firm that you engaged --

15 MR. MARSH: Right.

16 SENATOR RANKIN: -- and they are
17 citing that, again -- I assumed that this was --
18 "Some data and information was provided
19 electronically by the owners and consortium."
20 That's you producing information to the group
21 that you've engaged to assess the status of that
22 project.

23 MR. MARSH: Correct.

24 SENATOR RANKIN: Am I mishearing
25 -- you're saying Westinghouse wouldn't allow

1 them the review of all the data?

2 MR. MARSH: My understanding is,
3 some of that information you may be referring to
4 was Westinghouse data, and they either wanted it
5 limited to make sure it couldn't be copied and
6 taken off site, or they redacted part of it. I
7 think you mentioned some of it was redacted.

8 MR. BYRNE: Westinghouse and
9 Chicago Bridge & Iron. Chicago Bridge & Iron is
10 actually more a direct competitor with
11 Westinghouse, or they would feel like they're
12 more of a direct competitor with Westinghouse,
13 so we did have to push the consortium to share
14 documents with Bechtel, and there were some
15 documents that they didn't want to share, and
16 some documents that they provided that were
17 redacted.

18 SENATOR RANKIN: So the scope of
19 the review of that status was limited by those
20 who we are now effectively complaining that
21 pulled the rug out from under us.

22 MR. BYRNE: It's -- it was their
23 information, their proprietary information that
24 they did not give us permission to disclose, so
25 we pushed them to disclose it. I think that

1 they disclosed enough for Bechtel to do what
2 they wanted to, but I think Bechtel was trying
3 to be clear that they had -- they did not see
4 everything on the project. And for some things,
5 there wouldn't necessarily be a need for them to
6 see, you know, how much Westinghouse would
7 charge for a specific activity or what their
8 people get paid, that kind of thing. I don't
9 think that that would be necessary for Bechtel
10 to do their evaluation.

11 But we gave, we gave Bechtel, I
12 think, the information they needed, and we
13 pushed the contractor to provide the information
14 they needed. It was a struggle. Westinghouse
15 and Chicago Bridge & Iron did not want to give
16 all the information to Bechtel, so we pushed
17 them to give that information to them.

18 SENATOR RANKIN: Mr. Marsh,
19 apparently, and we heard, perhaps, again, the
20 narrative world, maybe unreported, whispered,
21 but there's great belief that there are two
22 reports, and, in fact, there's some indication
23 that there is a report issued on October the
24 15th, perhaps by Bechtel, perhaps by somebody
25 else. If -- one, is there another report that

1 this committee does not have, dated in October
2 of 2015?

3 MR. MARSH: We had a
4 presentation. I believe it was on October 22nd,
5 if I remember the date correctly, a preliminary
6 presentation by Bechtel. I don't recall a
7 report being issued because that was preliminary
8 information. The report I have from Bechtel is
9 the one I believe you've been provided. I'm not
10 aware of a second report.

11 SENATOR RANKIN: All right, so
12 there is no October of 2015 report in the world
13 that you have had your copy -- your hands on,
14 preliminary or otherwise.

15 MR. MARSH: I believe there was a
16 presentation -- I know there was a presentation
17 because I attended the presentation. I don't
18 recall if those drafts were distributed or not,
19 but it was not a final report. It would have
20 been just preliminary findings.

21 SENATOR RANKIN: All right, and
22 do you know whether those preliminary findings
23 would have had any effect on the terms and
24 conditions that resulted in the fixed-price
25 contract in October of 2015?

1 MR. MARSH: I don't believe they
2 would. We were very close to wrapping up those
3 negotiations. I don't recall taking any
4 information from that preliminary report and
5 putting that into the final deal with
6 Westinghouse. It was smaller issues at that
7 point. The heavy negotiation had taken place in
8 September and the early part of October.

9 SENATOR RANKIN: Was that a
10 PowerPoint presentation that you would have
11 received in October 22nd of 2015 or whatever
12 date; October 26th?

13 MR. MARSH: It would have been a
14 PowerPoint-style. Whether it was PowerPoint or
15 not, it was something, you know, we put on the
16 screen and looked at. It was not a bound
17 document.

18 SENATOR RANKIN: "we" put it on
19 the screen, or someone else put it on the
20 screen?

21 MR. MARSH: Bechtel put it on the
22 screen.

23 SENATOR RANKIN: All right, and
24 so you don't have a copy of any, like we have
25 here, PowerPoint presentation like perhaps, I

1 think, Mr. Addison did with us. Can you give us
2 a copy of that PowerPoint presentation?

3 MR. MARSH: I don't have one that
4 I'm aware of.

5 SENATOR RANKIN: Does one exist
6 within SCANA or within this consortium?

7 MR. MARSH: I would have to check
8 and see.

9 SENATOR RANKIN: Mr. Addison, do
10 you know whether that report exists?

11 MR. ADDISON: I do not, no.

12 SENATOR RANKIN: Mr. Byrne, do
13 you know if that preliminary report exists?

14 MR. BYRNE: Well, what you're
15 calling a preliminary report, if it's the
16 PowerPoint presentation that was given to us on
17 October the 22nd, I believe it does. I don't
18 have a copy of it with me, but I believe that it
19 does exist.

20 SENATOR RANKIN: Your -- will you
21 produce that to the committee?

22 MR. BYRNE: We'll go and look to
23 see that -- to validate that does exist, and if
24 it does, we will.

25 SENATOR RANKIN: And Lonnie,

1 Leighton -- Mr. Carter, Mr. Lord, do y'all have
2 that October 2015 PowerPoint presentation or
3 preliminary draft that you can produce to the
4 committee?

5 MR. CARTER: No, sir. I don't --
6 my recollection is, of that meeting, that they
7 didn't give us paper copies of it; in fact,
8 didn't want to because it was preliminary,
9 "they" being Bechtel. So it exists somewhere.
10 If nothing else, I would think Bechtel still has
11 their report. So I don't know that we have it.
12 I will say this, if we do have it, it's been
13 requested, and I look back at my counsel, and it
14 should have been provided. So I don't believe
15 we have that report.

16 SENATOR RANKIN: Should have been
17 provided to?

18 MR. CARTER: To the requesting --
19 this committee or the House committee.
20 Somebody's requested it, and our policy is, if
21 we give something to one, we give it to the
22 other so that everybody's got what we're
23 producing. We want to be transparent, so if it
24 does it exist in our records, it should have
25 already been provided. I don't -- do you know,

1 Mike (PHONETIC)?

2 MALE SPEAKER: (INDISTINCT)

3 MR. CARTER: So we can tell you
4 whether it was. There is, in the record -- you
5 asked about any other report. There clearly
6 were earlier drafts that were sent to George
7 wenick, who was our counsel, going back and
8 looking at what we did around this, clearly, and
9 that would be my recollection too. Clearly
10 there was some back-and-forth about the report
11 and ultimately it getting released, which -- the
12 ultimate report, the final report that got
13 released in February.

14 That's the one I certainly saw,
15 worked off of, but there clearly had to have
16 been other drafts, so I just want to be fair and
17 clear, and those would have gone to counsel, as
18 far as I'm aware, and if there were any others,
19 I didn't get them.

20 MR. BYRNE: And Senator Rankin,
21 I've been advised that if we have a copy of the
22 report, it would have been -- or the PowerPoint
23 presentation, if, indeed, it was PowerPoint, it
24 would be with the -- our law firm that requested
25 the report be done, so I don't have a copy of

1 it, and we would maintain the argument of
2 privilege on that.

3 SENATOR RANKIN: All right --

4 MR. CARTER: If I may, Senator,
5 may -- if I may, I -- we do not have the October
6 22nd because we -- because I know they've been
7 looking for -- make sure we've been thorough and
8 have all these documents, but I am told that we
9 did have a draft. There was a draft in
10 somebody's file of an earlier report that we've
11 produced, so, again, I just -- I want to be
12 clear and (INDISTINCT).

13 SENATOR RANKIN: All right, and
14 so, Mr. Marsh, and I'm going to come back to
15 Santee Cooper as well, your testimony is that
16 there has never been withholding of any
17 pertinent information, relevant information from
18 ORS, Public Service Commission, or any other
19 agency charged with oversight of you and this
20 project.

21 MR. MARSH: That has certainly
22 been our intent, to be open and transparent,
23 although with respect to this report, we did
24 maintain that it was confidential due to its
25 being prepared in anticipation of litigation.

1 SENATOR RANKIN: All right, so
2 you've given a good lawyerly answer, and I'm not
3 trying to have harsh words here with you.
4 There's been a representation in the press that
5 -- or perhaps an editorial comment that SCANA
6 particularly did not produce this report and did
7 not divulge its existence to ORS and oversight
8 committees. Do you -- can you say, Yes, that is
9 true; No, that is false?

10 MR. MARSH: When you say
11 "oversight committees," are you talking about --

12 SENATOR RANKIN: Particularly
13 ORS.

14 MR. MARSH: I mean, we didn't
15 call ORS and tell them we had the report because
16 we --

17 SENATOR RANKIN: Did you deny
18 that it existed?

19 MR. MARSH: I don't recall being
20 asked about the report from ORS directly. I
21 know two members of our construction team, I
22 believe, were asked by a member of the ORS team
23 -- it might have been their outside consultant,
24 Gary Jones -- about the report, and I'll have
25 them respond to you. They were not aware of the

1 report at the time, and they said they would --
2 Mr. Jones said he would turn it over to Mr.
3 Scott.

4 SENATOR RANKIN: Okay. All
5 right. Mr. Scott, Dukes, I hate to bring you
6 up, or anyone else from ORS, and perhaps, if I
7 can -- and this, again, perhaps, the true
8 narrative or the false narrative?

9 welcome, and tell us -- well, I
10 know two out of the three.

11 CHAIRMAN SETZLER: Hold --

12 SENATOR RANKIN: Wait a minute.

13 CHAIRMAN SETZLER: Senator from
14 Horry, hold on just a minute. Senator from
15 Edgefield, will you swear the witnesses?

16 CHAIRMAN MASSEY: well, who's
17 going to speak?

18 CHAIRMAN SETZLER: I think all of
19 them are.

20 CHAIRMAN MASSEY: Are all of you
21 going to speak?

22 CHAIRMAN SETZLER: I think all of
23 them are.

24 CHAIRMAN MASSEY: Are all of you
25 going to speak?

1 SENATOR RANKIN: Who's at the --
2 who's at the podium first?

3 CHAIRMAN SETZLER: We're not
4 going to take a chance. Anybody -- everybody --
5 all of you, raise your right hand, please.

6 CHAIRMAN MASSEY: Everybody in
7 the audience -- no, no. All right. Do you
8 swear to tell the truth, the whole truth, and
9 nothing but the truth, so help you God?

10 MULTIPLE SPEAKERS: I do.

11 CHAIRMAN MASSEY: Mr. Chairman,
12 all three of them said, "I do."

13 SENATOR RANKIN: Ma'am, introduce
14 yourself; I'm sorry.

15 MS. POWELL: I'm sorry. I'm
16 Allyn Powell with the South Carolina Office of
17 Regulatory Staff. I managed the review for ORS,
18 and I'll tell you that we're still going back
19 through our information because it's
20 conversations from two years ago now that we're
21 trying to remember.

22 But this is what I know. In
23 October of 2015, I think it was October 27th, we
24 had an item on our agenda where we asked for
25 basically the top ten items that Bechtel had

1 been recommending. To give you some context,
2 SCE&G did not tell us, to my knowledge, that
3 Bechtel was doing assessments. One of my staff
4 members observed Bechtel people in a meeting and
5 said, Hey, what are they doing? Noticed that
6 they made two or three observations to
7 Westinghouse.

8 My staff person then came back,
9 told me and Gary that, you know, what they had
10 observed, and we were like, well -- we thought
11 at the time, I think, it was just another person
12 that Westinghouse had hired to try to help them
13 improve the project because they would
14 occasionally go through these incidents where
15 they would try to hire someone to help them do
16 things better, and they would come and they
17 would go, and some things would change, and some
18 things would not change. But sort of out of,
19 you know -- we're like, well, let's just ask a
20 question and see what we get.

21 So we put a question on our
22 agenda, what were the top things that Bechtel
23 was telling Westinghouse in this meeting? And
24 then we got a response. The first people we
25 talked about to were the Budget and Finance

1 team. The Budget and Finance team, my notes
2 indicate -- said that they hadn't been briefed
3 on anything to do with Bechtel.

4 Then I believe that Gary talked
5 to Mr. Torres, and I think he said that he'd
6 been interviewed by Bechtel and that then -- and
7 then my recollection is, Gary -- and then that
8 was really -- and I don't remember that
9 conversation. Gary would really have to testify
10 to that conversation. I think I actually may
11 have left before the end of that conversation
12 because I had to get back to a meeting at the
13 office

14 I know that we followed up about
15 Bechtel in November. We also followed up about
16 Bechtel in December, and we followed up about
17 Bechtel in January.

18 SENATOR RANKIN: Met with who?
19 who are you talking about and where?

20 MS. POWELL: With the team on-
21 site. The recollection that my staff member,
22 Gary, and myself all have is that we asked our
23 primary contacts, who are the Budget and Finance
24 people, at one of these meetings -- and I'm
25 sorry, I can't find it written down in my notes

1 anywhere, but we all have the same recollection.
2 we said, Has there ever been anything, you know,
3 that came out of what Bechtel did? And they
4 said that they were aware of a written
5 presentation, but -- not a -- I'm sorry. They
6 were aware of a verbal presentation but not of
7 any written documents, and I said, well, if
8 there are any written documents, I would like
9 them.

10 SENATOR RANKIN: And that would
11 have been approximately when?

12 MS. POWELL: That would have been
13 in the spring of -- that would have been in the
14 spring of 2016, but I don't remember when it
15 was.

16 SENATOR RANKIN: Okay.

17 MS. POWELL: And so even if it
18 had been before the report was issued, I would
19 hope that our regular -- that our regulated
20 entity would know that we wanted it and provide
21 it when the report was issued.

22 SENATOR RANKIN: All right, in
23 your dates, again, your months you've listed,
24 you had a number of conversations with, and the
25 last time would have been spring of 2016.

1 MS. POWELL: It would have been
2 spring of 2016.

3 SENATOR RANKIN: And the first
4 time that you noticed the Bechtel folks --

5 MS. POWELL: October of 2015.

6 SENATOR RANKIN: Okay, and at --
7 so at any time, were you provided with any
8 report prior to its release by Governor McMaster
9 a few weeks ago?

10 MS. POWELL: I'm not aware of any
11 written documents we were provided with.

12 SENATOR RANKIN: And your efforts
13 to get this information was done in
14 conversation, or was there written communication
15 requesting this?

16 MS. POWELL: The only written
17 communication I have is that one from October.

18 SENATOR RANKIN: Of 2015.

19 MS. POWELL: 2015. After that,
20 we essentially followed up and said, Is there
21 any update, is there any update, verbally in our
22 meetings.

23 SENATOR RANKIN: And you said --

24 MS. POWELL: Because we didn't
25 know that there was a report or exactly what

1 they were doing.

2 SENATOR RANKIN: Okay, and that,
3 again, is of the finance people of both SCANA
4 and Santee Cooper?

5 MS. POWELL: It was with the
6 finance people of SCANA.

7 SENATOR RANKIN: Okay. All
8 right. I don't have anything else for these
9 three folks.

10 CHAIRMAN SETZLER: Thank y'all --

11 SENATOR RANKIN: Thank y'all.

12 CHAIRMAN SETZLER: -- very much.

13 SENATOR RANKIN: So, again, Mr.
14 Marsh, in the -- is it a false narrative, or is
15 it a true narrative -- let me just jump to
16 another one -- that had, perhaps, both you and
17 Santee Cooper been more forthright with the
18 public and with ORS, given the request of
19 information that was denied, that had we known
20 earlier, that the project could have been
21 shuttered and that your shareholders and
22 ratepayers and Santee Cooper's shareholders,
23 which is every taxpayer in this state and its
24 customers, could have saved millions and
25 millions and millions of dollars? Is that a

1 true narrative, or is that a false narrative?

2 MR. MARSH: I believe that's a
3 false narrative because if I'd been asked
4 directly for the report by Dukes Scott or a
5 member of his staff, I would have responded,
6 It's a confidential document prepared in
7 anticipation of litigation, and we cannot share
8 it.

9 SENATOR RANKIN: So let me
10 interrupt you. So the young lady who is charged
11 at ORS with this particular task, are you saying
12 that she never asked for these documents of your
13 employees, your finance team?

14 MR. MARSH: No, sir, that's not
15 what I said. I said if Mr. Scott had asked me
16 -- if she asked the people on the finance team,
17 I doubt many of those were even aware the report
18 was out or the specific purpose of the report
19 because the work was done in a confidential
20 manner.

21 SENATOR RANKIN: So how would Mr.
22 Scott know it existed, but only you did, if his
23 staff member is asking the folks charged with
24 implementing the financing of this project knew
25 it existed and were apparently at meetings with

1 your staff? How -- I mean, how --

2 MR. MARSH: I don't know the
3 exact words in that conversation, but I know
4 members of our team did not disavow that Bechtel
5 had been on-site, but I think they said, we have
6 not seen a report, or, There is no report. I
7 can't speak for them. I've got two of them here
8 who can tell you exactly what they said. But I
9 don't believe, had we made that information
10 available, had it not been confidential and
11 prepared in anticipation of litigation and we
12 shared it, I don't believe it would change where
13 we are here today.

14 I mean, we have testified that
15 the information in that report was not a
16 surprise to us when it came out. As I mentioned
17 earlier, I've gone back and our team has gone
18 back and documented issues in the report and
19 corresponding times when we disclosed it to the
20 Public Service Commission, either in testimony
21 or through our quarterly reports we filed with
22 respect to the project being undertaken.

23 I don't believe we -- well, I
24 know we didn't intentionally try to hide
25 information, in my opinion, from the Office of

1 Regulatory Staff. They were on-site. We talked
2 about these issues with them. We talked to the
3 Commission. We talked about it in our quarterly
4 reports. So there was not an intent on our
5 part, in my opinion, to shield or not be
6 forthcoming with information.

7 SENATOR RANKIN: Mr. Carter, Mr.
8 Lord, I ask you the same question. Again, and I
9 well recall we had our meeting -- the 27th?
10 When did we meet? When was our first meeting?
11 Whenever, August --

12 FEMALE SPEAKER: October.

13 SENATOR RANKIN: -- the question
14 was asked about this report, and one didn't want
15 it out, and, again, not -- no aspersions or
16 disparaging comments to you from the legal
17 context -- but one didn't want it -- one
18 effectively said of the Bechtel Report, Don't
19 tell. Y'all said, Do tell. Remember?

20 MR. CARTER: Yes, sir.

21 SENATOR RANKIN: All right, so
22 the same question to you. Had that been known
23 by ORS and by anybody -- Public Service
24 Commission, the advisory committee, whoever else
25 -- had we know then what the condition of this

1 project was, and the narrative being that had we
2 been told the information earlier, that your
3 ratepayers, taxpayers, and the shareholders and
4 ratepayers of SCANA would have saved millions
5 and millions of dollars had you shuttered it
6 sooner? Is that a fair narrative, or an unfair
7 narrative?

8 MR. CARTER: I don't believe that
9 the Bechtel Report would have let us shutter the
10 project earlier because there were other factors
11 that play into that, particularly if, when we
12 were looking at the negotiation, even in
13 October, the time frame, in all of '16, the
14 Toshiba settlement, our guarantee, required us
15 to finish the units. And that was one of the
16 biggest concessions, in my mind, that we got out
17 of the settlement.

18 So there were a number of other
19 factors that would have, you know, would have
20 driven that decision. That's why I can reach
21 that decision so quickly. I -- the -- I know
22 there are number of attorneys on this panel, so
23 please forgive me, but that report probably had
24 been over-lawyered a little bit, and the reason
25 is, the reason -- why do I say that? In

1 fairness to them, what they tell me is if you
2 give up privilege, you give up all of it. So
3 I'm not a lawyer, but I've learned enough over
4 time, you've got to be real careful when you go
5 against your attorneys, particularly on specific
6 legal advice. This is a legal matter as to
7 whether to disclose it.

8 But the report itself, the reason
9 that I wanted it out was because, one, a number
10 of people knew we'd had a review done, and I
11 felt like it was -- it -- by not releasing it,
12 it made it -- made people -- when -- in the
13 absence of information, generally people dream
14 up things that are far worse than were in the
15 actual report, and as we said before, outside of
16 the project management, I believe that if you
17 look at the major items, we were working with
18 the consortium on trying to address those, some
19 with more success than others, but they
20 certainly were being worked on to try to be
21 addressed, and there was, like I say, some
22 success.

23 So the -- I believe that if we
24 had released this report, it would have put more
25 pressure on -- particularly after we got past

1 the settlement and after we got the amendment
2 and we were just working with Westinghouse as
3 the primary contractor, that we would have been
4 able to put more pressure on them publicly, if
5 you will, to get them to perform better and
6 would have also let their bosses in Japan know
7 -- that was another thing, that we would have
8 let the corporate headquarters know that this
9 report had been done and it mostly pointed
10 fingers at them because at that point, the most
11 valuable stuff in the report were the
12 recommendations about fixing stuff: what things
13 do you need to work on, and how should they be
14 fixed?

15 And so I just think having made
16 it public would have, one, taken the mystery out
17 of it, and, two, it would have put more pressure
18 on our contractors. So that's a business guy's
19 view of this thing, but in fairness to counsel,
20 both the external counsel and our own counsel,
21 they warned me that if we released that report,
22 we potentially -- just released it to the world,
23 we gave up -- potentially gave up privilege on
24 all of our privileged documents.

25 SENATOR RANKIN: Let me chase a

1 rabbit with you, Mr. Carter, and the question
2 was asked, when did you -- I think in response
3 to the Senator from Edgefield, Senator Massey's
4 questions -- did you ever tell anybody that
5 there was trouble with this project? I think
6 your answer was that you shared it with the
7 advisory board; is that correct?

8 MR. CARTER: No, sir. The answer
9 to that question was, Did we communicate with
10 them, the advisory board, the only -- I was told
11 at the break that the only time we actually
12 mentioned the problems was in our last report to
13 them, which would have been, I think, the 2016
14 report that would have been issued a few months
15 ago.

16 SENATOR RANKIN: So the advisory
17 --

18 MR. CARTER: But those will be
19 clear.

20 SENATOR RANKIN: All right, the
21 advisory board is made up of whom?

22 MR. CARTER: Five constitutional
23 officers. Let's see if I can name all of them:
24 the Governor, the Comptroller General, the
25 Treasurer, the Attorney General --

1 SENATOR RANKIN: Treasurer,
2 Comptroller General, Secretary of State --

3 MR. CARTER: Secretary of state
4 is the one I left out. So that's it.

5 SENATOR RANKIN: Right, and so
6 you're saying that you had conversations with,
7 or there was never any disclosure of this
8 problem until a written report in '16?

9 MR. CARTER: No, sir. Certainly
10 -- let's see. Certainly, Governor McMaster
11 called me about it, and I saw him several
12 places, and particularly in starting -- once we
13 knew that Toshiba announced this next write-
14 down, I told him that the project was in trouble
15 if Toshiba couldn't stand up.

16 So we'd have to go back -- I
17 didn't, you know, keep a record of those, but
18 there would be times when he would call, and
19 certainly, when the project -- when Westinghouse
20 went bankrupt, anybody that asked me, I made
21 very clear, this project was in the balance,
22 meaning that it could go either way, and
23 certainly, we were talking to the board about it
24 all along.

25 SENATOR RANKIN: Well, and I

1 wrote down earlier, you -- I wrote, L.C., you
2 told Senator Setzler you gave up in 2014.

3 MR. CARTER: On the truth coming
4 out of our contractors.

5 SENATOR RANKIN: All right.
6 Okay.

7 MR. CARTER: I didn't give up on
8 the project because we certainly worked hard
9 every day leading up until we decided that we'd
10 have to cancel it to try to get these things
11 completed. What I could not rely on was -- what
12 I'm trying to say to you is, there's a
13 contractor, there's an officer sitting across
14 the table from you, and they repeatedly made
15 promises to us, all kinds -- they'd be things
16 from when a module would show up and it would
17 get on the hook, I mean, meaning when it would
18 get set and stuff, and it just -- it got to be
19 where we had these quarterly presidents'
20 meetings, and it just -- you know, they would
21 look at me and ask me, you know, what did I
22 think, and I'd say, I don't believe you until I
23 -- when I see it on the hook, that's when I'll
24 believe it. That's what I mean by that
25 statement. It -- you couldn't rely on them.

1 SENATOR RANKIN: Well, and you
2 have invoked the term, and to Senator Hutto's
3 question, you said that's the operative term,
4 "minority partner" here.

5 MR. CARTER: Minority -- yes,
6 sir.

7 SENATOR RANKIN: And y'all have,
8 again, taken great heat, in this false or true
9 narrative: You didn't come to us soon enough.
10 You didn't yell, Fire. You didn't do enough
11 soon enough. And, you know, there's --
12 obviously, we're all charged with trying to make
13 something good out of bad here; you, as well.
14 Your legacy, retired, notwithstanding, or
15 retirement pending, notwithstanding, I mean, you
16 certainly don't want this and you to go down in
17 a negative light.

18 But to that point, I mean, should
19 you not have done more sooner and alerted -- and
20 I don't know whether the full board -- and
21 you've answered earlier that the entire board
22 has known throughout, at every turn, the
23 iterations of this project. What could Santee
24 Cooper have done? Senator Massey asked you
25 that, I think, earlier. I'll ask it again.

1 what could have, would have, should have you, as
2 the director of Santee Cooper, done, and/or your
3 board to pull the plug on this sooner and to
4 stop the bleeding?

5 MR. CARTER: Again, I -- the
6 chairman can speak to this. We certainly kept
7 our regulator -- the people we were responsible
8 to was our board, and they were very much
9 informed. I believe everyone -- everybody that
10 was on that board would tell you, we had --
11 every meeting, this was an issue, this being
12 Summer 2 and 3 and getting them complete very,
13 very early on, and certainly, these last several
14 years, and we all worried about the schedule.

15 Particularly we had our issues
16 and things that we wanted to get addressed when
17 we went into the amendment and had the
18 opportunity to fix it because -- and, again,
19 when the Bechtel Report started, it was more
20 aimed at getting ready to have leverage over
21 Westinghouse by potentially having to sue them.
22 Ultimately, because they realized that was going
23 to happen, they wanted to get CB&I off the
24 project, so that gave us a way to have some
25 leverage, as have been testified before. So we

1 certainly were talking about all of those things
2 and those issues, but I -- again, as I've said
3 before, our main focus was on trying to get the
4 units done within the budget of the approved
5 amount and the schedule that we had, and in
6 order to do that, you had to addressed these
7 efficiencies.

8 The ultimate -- as I would say,
9 the penaltude, penitude -- excuse me -- of the
10 metric was, How much percentage complete of the
11 project did you get each month? There were a
12 number of other factors that go under that or
13 measures that we were looking at, but if you
14 look at that one, if you didn't get it up, it
15 you didn't get it up close to 2, there was no
16 way to meet the schedule. And so what --
17 particularly after the amendment, what we were
18 focused on?

19 And it was basically the same
20 stuff that's in the Bechtel Report, which is,
21 How do you build this facility more efficiently?
22 How do you get these problems out of the way so
23 that the thing can get done? And that's what
24 was being worked on, so I don't see place where
25 we could have stopped the project earlier. I

1 want to be -- I do want to say this.

2 I -- certainly -- nobody -- I
3 don't want to portray that we were perfect.
4 Obviously we weren't because we aren't finishing
5 the projects. We didn't succeed in that sense.
6 So there were certainly things that you probably
7 could go back and look at and say, well, I wish
8 I had done that better. I certainly feel that
9 way. I wish we had nailed down this report
10 earlier, pushed harder, in some cases, on the
11 contractor to actually bring people, more people
12 onto the site earlier because that actually,
13 obviously, made a difference. So most of the
14 things I would point to would say, I wish we had
15 done them earlier.

16 SENATOR RANKIN: All right. Mr.
17 Marsh, real quick, and then I'm going to wrap up
18 with my final narrative. But the decision to
19 hire Bechtel -- from a, again, chess game
20 appearance, Smith Currie hires Bechtel. You
21 hire the law firm, Smith Currie, correct?

22 MR. MARSH: That's correct.

23 SENATOR RANKIN: And then you
24 instruct your law firm to hire Bechtel.

25 MR. MARSH: We already had the

1 law firm working with us. We didn't hire them
2 for this specific purpose. They were already
3 advising us. They were working with us on the
4 project, and then we felt like this would be the
5 best way to protect this information for
6 potential litigation.

7 SENATOR RANKIN: And that
8 litigation would include, would it not, your
9 potential prudency hearing before ORS, correct?

10 MR. MARSH: This was done in
11 anticipation of litigation against Westinghouse.

12 SENATOR RANKIN: Right, but would
13 -- but for this discovery and but for this
14 blowing up, would anybody from ORS, anybody from
15 any part of this state or this world, and you
16 guys are a public traded company, everybody with
17 access to what's going on now, would anybody
18 have ever known about this Bechtel Report?

19 MR. MARSH: I can't foresee how
20 that would have played out in the future.
21 Certainly, if we go forward with litigation and
22 it had not been aware at that time, it could
23 have become available at that time, but I go
24 back to what I said earlier. There were not
25 significant surprises in the Bechtel Report.

1 The issues that were in that report, we had made
2 those aware to the Commission. We had made
3 Office of Regulatory Staff aware of those
4 issues. This report was done to validate -- we
5 had an independent firm to validate what we
6 believed to already by the issues.

7 SENATOR RANKIN: But the number-
8 one takeaway from me -- Mr. Carter, you say
9 you're not an expert in building, you're not a
10 lawyer. I'm barely a lawyer, but the takeaway,
11 is clearly what everyone has asked -- I don't
12 need an amen over there -- but the takeaway is
13 to anybody with a fourth-grade education, you
14 have a building or a project superintendent or
15 supervisor -- in my example last week or last
16 month, Horry County School District builds
17 schools. They hire a project coordinator.

18 Call the term whatever you want
19 to, but somebody who is paid by you to make sure
20 that your builder is doing what it's supposed to
21 do. You didn't have that until Bechtel told you
22 to do that. Why do you need to hire a law firm
23 to hire Bechtel to tell you that that seems to
24 be the better way of doing business?

25 MR. MARSH: I don't know about

1 your specific example. Unfortunately, I wasn't
2 here for the whole hearing last time, but I
3 believe the reason a school district would hire
4 somebody to oversee construction is because they
5 don't have that expertise in-house.

6 we did have that expertise in-
7 house. We had a team of 600 people on-site
8 involved in the project. We had over 300 years
9 of large project, EPC contract experience. We
10 had the most qualified people from a Part 52 NRC
11 regulatory perspective on our project site. We
12 had the experience. You know, we didn't -- I
13 didn't agree with the assessment in the report
14 that we didn't have experience, but we still
15 took steps to go further and find out if there
16 were ways we could continue to improve our
17 oversight of the project, and we did that.

18 I don't believe if we'd never
19 gotten the Bechtel Report, it would have changed
20 the outcome of the project. We had qualified
21 people on-site overseeing the construction, and
22 we made people aware of the problems that we
23 were having with the project.

24 SENATOR RANKIN: And I realize I
25 might sound a little cross with you because

1 everybody at that time is hoping that you're
2 going to get what you paid for. Y'all had seven
3 rate increases, you say, out of nine. Those
4 seven --

5 MR. MARSH: I'm going to correct
6 myself. I was corrected during the break. It
7 was nine increases, not seven.

8 SENATOR RANKIN: All right, so
9 there were nine rate increases from the
10 inception of this idea until the decision to
11 pull it. And 20 percent of those rate
12 increases, you said, were related to V. C.
13 Summer, correct?

14 MR. MARSH: No, that's not
15 correct. Let me try to clarify that. We had
16 nine rate increases under the Base Load Review
17 Act. We notified the Commission that we would
18 likely have those nine rate increases at the
19 time we filed for construction in 2008. The net
20 impact of all those rate increases combined
21 would have been about a 20 percent increase in
22 the customer's bill.

23 SENATOR RANKIN: Okay, and those
24 nine were all related to V. C. Summer.

25 MR. MARSH: They were related to

1 V. C. Summer. They were related to the
2 financing costs associated with the actual
3 construction dollars that had been spent to
4 date, not projected construction dollars.

5 SENATOR RANKIN: All right.
6 Final narrative, Mr. Chairman, and I'll
7 hopefully wrap up. We heard at the outset
8 questions of executive pay at Santee Cooper and
9 Mr. Carter. With agreements now, we've got
10 amendments to your contract, etcetera. Mr.
11 Marsh I want to ask you -- let me just give you
12 the narrative and then kind of drill down on the
13 question particularly, that since 2007, the
14 executive pay at SCANA has dramatically
15 increased to you and four other executive board
16 members, or members of -- with the realization
17 that, in time, with the Base Load Review Act's
18 passage by this General Assembly, that Santee --
19 that SCANA would be able to get those pay raises
20 and every increased rate itself back from ORS
21 and the Public Service Commission; does that
22 question make sense to you?

23 MR. MARSH: I --

24 SENATOR RANKIN: Do I need to
25 restate that for you?

1 MR. MARSH: I think I understand
2 the question.

3 SENATOR RANKIN: All right, and
4 let me -- before you -- now that you're with me,
5 let me go specifically. In 2016, it's reported
6 that the top five executives of your executive
7 team, of which you would be included, have
8 received \$3.3 million in bonuses directly
9 related to oversight and support of our nuclear
10 activities.

11 Particularly you were paid, in
12 2016, \$1.4 million in bonus for that. Mr.
13 Byrnes was paid \$620,000 for continuing
14 oversight of various aspects of the project. In
15 2012 he received \$183,000 for extraordinary
16 project management instrumental in moving the
17 project forward. Mr. Addison, \$620,000 last
18 year for efforts to secure financing related to
19 our nuclear construction project. All publicly
20 disclosed and perhaps wrong.

21 Mr. Addison, you were going to
22 give us details on that information, and if you
23 will, if you've got that to give to the
24 committee, I would ask you at the close of this
25 or if you've got it in hand to tell me, are

1 those numbers accurate? Has that been correctly
2 reported?

3 MR. ADDISON: I don't believe it
4 has. I can only speak to mine at this point.
5 we'll provide that information to the committee,
6 but the number you just commented on is my
7 entire incentive for that period, and only a
8 minority portion of it was related to nuclear.
9 I've got responsibility for all of the entities
10 of SCANA, and I'm president of the company in
11 Georgia.

12 SENATOR RANKIN: And mind you,
13 don't think that I believe that getting paid for
14 work is wrong.

15 MR. ADDISON: I understand.

16 SENATOR RANKIN: The narrative
17 though, and I think it is a fair narrative, that
18 if you can chart from 2006, when we didn't have
19 the Base Load Review Act, and afterwards, that
20 the executive pay has increased far more than 20
21 percent; that it looks, to the average person on
22 the street, that y'all have winked and nodded at
23 your part, and your board has worked and nodded
24 at you. Ultimately, where that money is coming
25 out of the ratepayer's pocketbook and not just

1 the shareholder. Is that a fair narrative, or
2 an unfair narrative?

3 MR. MARSH: That's an unfair
4 narrative. Our independent outside management
5 consultant from a human resources perspective
6 does an evaluation on a periodic basis. Every
7 two years, they go to the marketplace. They
8 market our jobs and our company against similar
9 jobs in other utilities. I think that that peer
10 group is around 30, 31 different companies, and
11 based on how those officers with similar
12 responsibilities are compensated, they set the
13 market value for our pay.

14 So once that pay is set -- that
15 would include base pay as well as incentive pay
16 -- our board goes through a process since the
17 larger part of that is at-risk compensation, or
18 the incentive compensation, and we derive a
19 series of goals that underpin the determination
20 of whether or not we earn that incentive pay.
21 They could be focused on our strategic planning
22 efforts. It could be focused on customer
23 service, operational excellence, and also
24 financial performance.

25 And then each officer is required

1 to come up with individual goals associated with
2 those -- that incentive plan. Once those are
3 approved by the board, there's a percentage
4 assigned to each one of those that would
5 determine how much of that incentive pay, if it
6 were to be paid at 100 percent -- it could be a
7 10 percent goal, a 25 percent goal, a 30 percent
8 goal. It varies for different officers,
9 depending on what his or her responsibility may
10 be.

11 And the ones for the nuclear
12 plant construction fell in the range -- I went
13 back and looked. For the last three to five
14 years, they fell into the range of between 10
15 percent and 35 percent, depending on what you
16 particular activities that were linked to that
17 incentive pay might be for that goal. So if
18 there were increases in pay -- and I think the
19 numbers you're reading are probably coming from
20 our public proxy statement -- those increases in
21 opportunities were determined by independent
22 market study evaluations.

23 The board doesn't set that on
24 their own. I certainly don't set it. My salary
25 is set by the board, based on those studies, and

1 then we have specific goals designed to
2 determine whether or not we achieve those
3 payouts.

4 SENATOR RANKIN: Your board is
5 paid as well?

6 MR. MARSH: Yes, they are.

7 SENATOR RANKIN: And what are
8 they paid?

9 MR. MARSH: On an annual basis,
10 it's \$219,000 a year. And again, that is set by
11 an independent consultant doing comparisons to
12 other utilities and other companies of
13 comparable size and comparable complexities.

14 SENATOR RANKIN: Does that also
15 include stock options?

16 MR. MARSH: We don't --

17 SENATOR RANKIN: Or is that in
18 the form of any type stock incentive?

19 MR. MARSH: Well, the 219,000, 60
20 percent of that is paid in SCANA stock, and the
21 other 40 percent is paid in a cash retainer.

22 SENATOR RANKIN: Okay. So is it
23 true that you, particularly, received, of your
24 \$6.1 million pay in 2016, and, again, God bless
25 you. Go, man, go. But that \$1.4 million of

1 that was a bonus directly attributable to
2 oversight and support of our -- and again, your
3 disclosure -- SCANA's nuclear activities.

4 MR. MARSH: My nuclear
5 responsibilities would have been included in
6 that number, but it's certainly not the total
7 number. It doesn't make up the total number.

8 SENATOR RANKIN: Of that bonus.

9 MR. MARSH: Of that bonus; that's
10 correct.

11 SENATOR RANKIN: All right, so if
12 that is reported -- and, again, maybe
13 misreported -- that's not all that made up your
14 \$1.4 million bonus.

15 MR. MARSH: That's correct.

16 SENATOR RANKIN: Right, and
17 again, Mr. Byrne or Mr. Addison -- he's already
18 spoken to his part -- but the bonuses disclosed
19 in 2016, Mr. Byrne, perhaps yours is wrong too?
20 And I'm trying to get too much in your
21 pocketbook, but it's public knowledge. Is that
22 an incorrect statement, that \$620,000 in 2016 is
23 not just nuclear activity?

24 MR. BYRNE: It is not just
25 nuclear activity. I have responsibilities

1 outside of just nuclear; that's correct.

2 SENATOR RANKIN: Okay. All
3 right. So, Mr. Marsh, again, this narrative,
4 corrected. I guess for the public to decide
5 whether true or false. You are telling the
6 world that you are coming back to Public Service
7 Commission and that you will be asking for a
8 prudence hearing -- to do what?

9 MR. MARSH: The exact details of
10 that filing are not known today. What we would
11 entail initially when we come back to the
12 Commission is, we have to have a final
13 accounting -- being raised as an accountant, we
14 have to have a final accounting of the dollars
15 we've spent to date. We believe those dollars
16 were prudently incurred under the order that we
17 had in place. We've not spent in excess of that
18 order, so we believe they were prudently
19 incurred under that order, and we need to
20 determine how we manage that process going
21 forward.

22 SENATOR RANKIN: But -- and
23 again, I don't want to box you in because you
24 may decide not to pursue it, as you talked about
25 with Senator Hutto. My question is, if you go

1 forward, it will be to affirm the expense of all
2 dollars spent thus far to get the return of
3 investment of ten-plus -- or ten-plus percentage
4 points' return in ROI; is that correct?

5 MR. MARSH: Well, the majority of
6 the dollars that we have already had approved
7 have been deemed prudent. What we would be
8 looking for is how we need to account for the
9 remaining dollars and whether or not any of
10 those dollars are going to be paid for
11 customers.

12 I believe what I told Senator
13 Hutto earlier was, the Base Load Review Act
14 provides for us to recover those dollars from
15 customers. What we hope to do is to find a
16 solution where we can minimize the impact on
17 customers and take that solution to the
18 Commission for approval. The normal process
19 would be for us to file with the Commission, and
20 any party that wanted to intervene in that
21 proceeding would intervene in a proceeding, and
22 we would sit down with that group and try to
23 determine what the solution should be.

24 I see this case a little bit
25 different, given the attention that it's gotten.

1 I think it would be -- from my perspective --
2 I'll speak for me and my team. What we'd love
3 to see happen is to sit down with the
4 appropriate individuals and try to find a
5 solution, working with your team, and certainly
6 the House of Representatives have people that
7 are interested from their side on what this
8 outcome may be, Dukes Scott and the Office of
9 Regulatory Staff, or any of those groups that
10 would normally intervene or would plan to
11 intervene in this filing when we make it.

12 The only thing I can tell you for
13 sure today -- there are two things I can tell
14 you for sure. One, we will need to make a
15 filing at some point. We just have to because
16 it governs how we do the accounting and how we
17 do the billing of whatever cost may be approved
18 by the Commission. The second thing is, we
19 continue to look for ways to minimize -- the
20 number's now at \$2.2 billion. We started at
21 4.9, which is what we had spent to date. We
22 backed off that. The Toshiba guarantee, backed
23 off from that, the benefit from taking the tax
24 deduction, and that leaves us with \$2.2 billion
25 dollars in construction costs that we have to

1 make a determination, How is that going to be
2 handled? Our goal is to minimize that and have
3 no further rate increases for customers
4 associated with the nuclear project.

5 SENATOR RANKIN: And the --
6 again, harkening back to the question to my
7 right from Senator Hutto. You've got two
8 masters here, it seems to me: a shareholder and
9 a board of directors whose goal is to maximize
10 the return for a shareholder by way of a
11 dividend or appreciating stock, or your
12 customers. And so my question, are those two at
13 polar-extreme odds of the spectrum? Can you
14 serve both the shareholder and the customer by
15 your efforts of minimizing the exposure? But
16 isn't somebody going to have to pay?

17 MR. MARSH: We --

18 SENATOR RANKIN: Unless you find
19 a seller? Santee Cooper finds a -- or rather, a
20 buyer, or some other agreement to have someone
21 operate this? Somebody's going to have to take
22 a hit: the shareholder or the ratepayer. Is
23 that -- I mean, or -- is there anybody else for
24 SCANA?

25 MR. MARSH: Those are the two

1 people most impacted here because the
2 shareholders have put up the cash to build the
3 project, and the customers have been paying the
4 financing costs. So my goal is to please both
5 groups at the end of the day. I know that's not
6 an easy hill to climb. We've got some pretty
7 creative people on our team. We've worked
8 through challenges before. I believe we can
9 find a solution that will be acceptable to both
10 parties.

11 I don't believe either party will
12 receive everything it wants, but I believe we
13 can find a very fair settlement that will not
14 require us to increase customer rates anymore as
15 a result of the nuclear project. I believe we
16 can find a way that we can minimize the
17 financing costs they're paying, and we're going
18 to do so as quickly as possible as a total
19 component of the bill that they pay.

20 SENATOR RANKIN: Finally, Mr. --
21 two things. Mr. Carter, same to you. In terms
22 of the hit that awaits Santee Cooper's customers
23 and the taxpayer, how -- who is your master?
24 Other than the good Lord, who is the -- who are
25 you trying to please and Santee Cooper trying to

1 please and avert harm to?

2 MR. CARTER: Of course, my duty,
3 I report to the board. But our -- jointly, I
4 think we would all tell you that our -- we have
5 to -- the customer is where our duty is, and
6 that's the only place that Santee Cooper has to
7 recover money from.

8 we don't have any taxing
9 authority, either, and have not ever received
10 any tax money from South Carolina, so we -- our
11 bonds are only supported -- so when we issue
12 debt, our bonds are only supported by pledge of
13 revenues. They do not have a pledge of assets
14 or anything like that. They are revenue bonds,
15 so that's the only place we have to recover
16 dollars.

17 That's why I said earlier,
18 everything will be on the table in order to try
19 to minimize the impact, ultimately, on
20 customers' bills to remain competitive. That's
21 why when -- I want to -- and Chairman Lord can
22 speak to this, but when we start seeing numbers
23 where we're talking about twice as much -- we'd
24 have to raise rates twice as much or more than
25 what we were -- our business plan was to finish

1 this project, we have to say, Hey, we can't do
2 that because we can't remain competitive and
3 bring value to the state as we're required to do
4 as a state entity.

5 CHAIRMAN SETZLER: Okay, next is
6 the Senator from Fairfield, and then we've got
7 the Senator from Dorchester, the Senator from
8 Oconee, and the Senator from Richland, among
9 others who want to be heard, so we're going to
10 keep plugging along, and let's all be respectful
11 of each other's time because clearly, we're
12 going to be here a while and still not finish
13 tonight.

14 SENATOR FANNING: Mr. Marsh, you
15 mentioned, we will not request any more rate
16 increases. The hope is that we would not
17 increase rates to customers for nuclear. Two
18 things that go with, though, and I think it was
19 mentioned earlier. I think Senator from
20 Orangeburg made this point. We won't be asking
21 further increases for any nuclear projects, but
22 the current 20 percent increased rate is not
23 going down, other than the percentage you
24 alluded to earlier, and you didn't state that
25 you -- forgive the double negative, but you

1 forget -- you didn't state that you wouldn't ask
2 for another increase for maybe another source of
3 energy that we may have to pay for, correct?

4 MR. MARSH: Right. Let me
5 address the 20 percent. The 20 percent that
6 customers are paying now, as we bring the money
7 in from Toshiba on the settlement, as we're able
8 to collect the cash from the federal government
9 for the tax refunds on the deductions, by
10 definition, what they pay is a portion of their
11 bill will go down as a component of that bill.
12 That doesn't mean the bill itself will come
13 down, but they will not stay at 20 percent.
14 That will start to decline as soon as those
15 funds come in.

16 SENATOR FANNING: And I
17 appreciate that. I think the customers were
18 wanting to know whether the bill will go down,
19 and you answered that question. But you also
20 did mention there is a possibility, and I
21 believe that you also mentioned, Mr. Carter,
22 that we may have to, at some point, look at a
23 rate increase for other fuel options as we have
24 needs; is that correct?

25 MR. MARSH: We will. As we

1 determine the need to add additional generating
2 facilities to the system, we will evaluate that.
3 On a cost-effective basis, determine the best
4 way to do that, whether that's through a long-
5 term purchase, which is generally good for a
6 period of time, but at some point, you'd like to
7 be able to control that asset so if market
8 conditions change, you have the ability to meet
9 the needs of your customers.

10 SENATOR FANNING: And Mr. Carter,
11 you mentioned that we couldn't afford to have a
12 41 percent rate increase to finish the project,
13 but at some point, we're going to have some kind
14 of a rate increase, whether it's to finish the
15 project or to find a new source for fuel in some
16 sense, correct?

17 MR. CARTER: Fuel and our rates
18 are automatically adjusted, so fuel is a pass-
19 through cost.

20 SENATOR FANNING: We shouldn't
21 mislead the public that somehow we're walking
22 away and we won't have future rate increases.

23 MR. CARTER: No, sir. In fact, I
24 want to be absolutely -- I hope my testimony has
25 been very --

1 SENATOR FANNING: It was.

2 MR. CARTER: We have to pay -- we
3 borrowed money to pay for the construction of
4 these plants. We have to pay those bondholders.

5 SENATOR FANNING: And my point
6 was not to somehow unfairly characterize either
7 of you with this. I'm wanting to compare it to
8 the cost of finishing the reactors. Is --
9 either way, we're going to have some rate
10 increases at some point in the next ten years,
11 whether it's to finish to reactors or whether it
12 is to abandon reactors and move forth with a gas
13 plant or buying fuel off the grid or something
14 else.

15 We -- Senator from Horry was
16 talking about salaries and bonuses, and we
17 talked about examples of the fact that many of
18 the salaries and bonuses, people legitimately
19 deserve because they -- there were huge
20 components that were not tied to the nuclear
21 reactors. And so we talked about the SCANA
22 executives that were paid market-based salaries
23 that were reviewed by committees nationally to
24 determine what it was paid, bonuses that were in
25 line with what the market said, and

1 consequently, folks deserve that process.

2 we talked about SCANA board
3 members making \$219,000, and that is driven by
4 market economics. It's not numbers pulled out
5 of hat. We've talked about SCANA's
6 shareholders, that they deserve to be treated
7 with respect in keeping cost down low because
8 they helped with the investment of the process,
9 minimizing the damage to their stock, although
10 their stock did go up a little bit.

11 But there's one other -- folks,
12 and that's the SCANA consumer. Obviously, just
13 as the executives deserve pay and the SCANA
14 board members deserve pay, the shareholders
15 deserve somebody looking out for them, making
16 sure they get a return on their investment, the
17 SCANA customers deserve either two reactors for
18 ten years of their part of the investment -- and
19 you made a good point, Mr. Marsh. It's only
20 part, but they deserve either the two reactors,
21 or they deserve their money back, and I think it
22 gets to the point that we all deserve something.

23 But sometimes life's lessons are
24 that we don't get what we deserve, and it sounds
25 like today, we're talking that the consumers

1 just aren't going to get what they deserve.
2 They deserve either two reactors as they were
3 promised, or they deserve their money back. Are
4 there any assurances that we can give our
5 consumers that, just as the execs are going to
6 get what they deserve, the board members are
7 going to get what they deserve, the shareholders
8 are going to get what they deserve, that somehow
9 the consumers will either get \$2.5 billion back
10 in cash, or two reactors? Mr. Marsh?

11 MR. MARSH: I think all of those
12 groups have been impacted or certainly will be
13 impacted. As I said earlier, the costs that we
14 have charged to customers to this point has been
15 for the financing cost of the construction
16 dollars that were prudently incurred to this
17 point. We made the decision it was not prudent
18 to continue based on the factors in our
19 evaluation and comparing that to other sources
20 of generation, which is why we made the decision
21 to abandon the nuclear plants.

22 All of the decisions we make from
23 the company perspective are with the customer in
24 mind. That's why we decided to build new
25 nuclear. That's why we worked so hard to bring

1 these projects to fruition. But unfortunately,
2 even the decision to abandon the project was in
3 the best interest of customers. Shareholders
4 have seen an impact from the decision we've
5 made. The value of their investment in SCANA
6 stock has been impacted by the overhang of where
7 we are now and the decision processes that need
8 to be made. They've been impacted by that.

9 I'm quite comfortable saying
10 you're not going to see -- and incentive payouts
11 next year, based on impacts we've had this year
12 on financial results and the impact of the
13 decision to cancel the project, I'm quite
14 comfortable those payouts won't be there at
15 those levels next year, based on the nuclear
16 decision.

17 SENATOR FANNING: I -- and I do
18 want you to continue, but I do ask, we see what
19 SCANA executives have gotten, what SCANA board
20 members have gotten, what shareholders have
21 gotten. Can we put into words what consumers
22 ratepayers are left with? What have they gotten
23 out of this? I mean, they've contributed for
24 ten years. They were never asked to contribute,
25 but they did, and I'm not -- I don't want to go

1 back. I just say going forward tomorrow, what
2 do they get out of this?

3 MR. MARSH: They're going to get
4 our best efforts to minimize the impact of the
5 abandonment costs. The decision to make -- to
6 decide to abandon the project, that was a
7 prudent decision, just like the decision to
8 build the project was a prudent decision. You
9 know, their interests were represented at the
10 Public Service Commission when we had this
11 project approved. Everybody agreed this was the
12 best path forward that would give them the least
13 cost option of energy going forward, based on
14 what we knew at the time.

15 Circumstances have changed. Not
16 only has the construction project changed, but
17 the cost of natural gas has changed. The long-
18 term outlook for natural gas has changed. I'm
19 -- I believe if we were still looking at
20 volatility in gas prices today that we saw back
21 in 2008 when the plant -- decision was made,
22 we'd likely still be building because of the
23 impacts of the volatility of natural gas.

24 So can I tell you today the
25 customers have got a nuclear plant to show for

1 their efforts? No, they don't. That's clear.
2 They don't have that plant, and I'm extremely
3 disappointed, my leadership team is disappointed
4 that we don't have that plant, but we made the
5 right decisions at the time we made them based
6 on the best information --

7 SENATOR FANNING: Based on the
8 information, and that's where I want to go next
9 because it does sound like what we're talking
10 about, this prudence, is making the best
11 decisions with the information we have now, and
12 I think that's why, Senator from Horry, if I can
13 follow up -- he's not paying attention, so I
14 guess I can.

15 SENATOR HUTTO: Yeah, I am.

16 SENATOR FANNING: I'm just -- I'm
17 kidding -- is that two years ago, we decided
18 that based on the information we had at the
19 time, it was not -- that it was prudent to keep
20 working on the job.

21 And Mr. Carter, you also agreed
22 that a couple of years ago, we believed that
23 while we might have been disappointed with what
24 was going on, we did believe, Mr. Marsh, that it
25 was prudent at that time, based on the

1 information we had. Today we say that we have
2 more information, and it's now prudent to walk
3 away.

4 And it's a two-part question.
5 The first one, to you, Mr. Marsh, is, ORS just
6 testified about, not a report, but a
7 presentation or a PowerPoint, and your response
8 was, we can't give them a report that they
9 didn't ask for. And I understand the legal
10 reason for that answer. One of the reasons for
11 the frustration across the State of South
12 Carolina is, the *duh* question in the room is,
13 How on earth did they know to ask for a report
14 if you never told them that there was a report?
15 How would they possibly know to say, Can you
16 give us the report that you didn't tell us
17 about?

18 MR. MARSH: Well, we've said from
19 the beginning, and I think we've been
20 consistent, that we consider the report
21 confidential. It was prepared in anticipation
22 of litigation, and therefore, we didn't go out
23 and offer it to people. The information in that
24 report was a validation of concerns we've got.
25 We believe that those concerns were already

1 adequate disclosed through the review process
2 and the hearing process at the Commission.

3 Again, I'll be glad to leave you
4 with this document where we've referenced the
5 concerns in a report to areas where we've
6 already shared that information publicly. And
7 if they had asked me for the report, I still
8 would have told them it's confidential because
9 it was prepared in preparation for potential
10 litigation.

11 SENATOR FANNING: And I do get
12 that. I guess my question, unlike anybody else
13 here, I'm wondering how on earth they'd know to
14 ask you for the report so you could tell them
15 you couldn't give it to them.

16 MR. MARSH: I think we've already
17 testified, and even their representatives have
18 testified, they saw Bechtel people on-site.
19 They required about the report.

20 SENATOR FANNING: Mr. Marsh,
21 that's what worries us, is that if we have to
22 make decisions based on the hope that somebody
23 on a regulatory staff might have hopefully seen
24 somebody hanging out with executives at SCANA,
25 hoping and guessing that perhaps they're working

1 together, therefore we might ought to ask if
2 they've ever made a PowerPoint presentation that
3 we could ask for that's not a report, I think
4 that's kind of the problem of -- especially when
5 we're getting to the crux. The crux is, we're
6 saying, is the lack of information. Four years
7 ago, if we'd had more information, we'd make a
8 different thing.

9 One follow-up, Mr. Carter, and
10 this may just be a clarification. Earlier --
11 and when I say "earlier," it was probably three
12 hours ago -- you said that there was a report
13 "we" produced. Did you mean that Bechtel
14 produced, or did you mean that Santee Cooper had
15 produced a report? And this was amidst the
16 discussion about the PowerPoint. I don't think
17 that you meant that you produced a report. I
18 think you meant --

19 MR. CARTER: Santee Cooper didn't
20 produce a report.

21 SENATOR FANNING: Okay.

22 MR. CARTER: But the question
23 was, How many reports were there, I believe,
24 from Senator Rankin, and the answer is, we did
25 not and Santee Cooper does not have in its

1 possession the PowerPoint presentation or the
2 presentation that was made because I don't know
3 if it was PowerPoint or not. But there was a
4 draft that somehow came to be in our possession,
5 and that has been produced also.

6 SENATOR FANNING: That's what I
7 thought you said. I just wanted to clarify that
8 there was no report that you made.

9 MR. CARTER: No report that we
10 made.

11 SENATOR FANNING: Suppose the
12 Horry County School District -- and let's just
13 use it because the Senator is right here.
14 Suppose they went to the people and said, we
15 want to have a bond referendum to raise your
16 taxes by \$200 million to build a brand-new, 5-A
17 high school called Rankin High, and --

18 MALE SPEAKER: Or Rankin Low.

19 SENATOR FANNING: Rankin Low,
20 absolutely. And so they raise taxes, and they
21 were supposed to have the school built in two
22 years. They hired a construction company to do
23 it, and they failed miserably, and they gave
24 them a schedule, and they didn't follow the
25 schedule. But basically, it ended it up taking

1 twice as long. The cost went up twice as much.

2 Meanwhile, the superintendent
3 raised -- the board raised the superintendent's
4 salary. The board members raised their pay.
5 Bonuses were given out. The contractor goes
6 bankrupt, so we've now raised taxes by \$200
7 million for a school that we drive by every day,
8 and we see this half-built school -- or let's
9 say 67 percent-built school; I just like that
10 percentage. And we drive by it every day, and
11 then all of a sudden, the school board just
12 votes to abandon it. They vote to walk away
13 because they can't sink anymore into it because
14 of the entity.

15 The question is, would there not
16 be some similar anger and frustration by
17 consumers of that school, whether it be kids
18 going to the school, taxpayers to the school?
19 If -- and who would we hold accountable? would
20 we hold the contractor that the school board
21 hired that failed accountable, or would we be
22 focused like a laser beam on the school board
23 and the superintendent asking them, what did you
24 know, when did you know it, and if there was a
25 report or a PowerPoint presentation? who --

1 where would the focus of the anger be?

2 MR. CARTER: First, I can
3 understand anybody frustrated or angry about
4 where we find ourselves because I feel those
5 same emotions because I've lived with what I
6 consider some of the misrepresentation and
7 deceit from our contractor that led us to part
8 of this. But really, to the point of -- our job
9 is to do what's best for our customers. That's
10 the only party that the board has to satisfy or
11 that -- because of that -- because that's who
12 they have to satisfy, that's who I have to
13 satisfy.

14 And so when we made these
15 decisions -- we made the decision to start; that
16 looked like the best decision -- as we went all
17 the way along and considered what to do with
18 this project, all the way along, up until the
19 day that we had to cancel it, was made to make
20 sure that power costs were as low as we can keep
21 them, given the alternatives that we had in
22 front of us at the time. So that's what we were
23 doing and doing the best we could with that.

24 But I want to go back to
25 something that I -- in my testimony earlier. I

1 want to caution all of us to not realize that
2 what we have out in Fairfield County in Summer 2
3 and 3 is an investment. In my career, I have
4 seen not only in our case, coal units, but I've
5 seen nuclear units gone back to and finished.
6 And so I just want to caution us to not think
7 that that's just all gone.

8 My prediction is that things will
9 change. If anything I've seen in my 30-plus
10 year career is, is that this business changes
11 often in ways that you just cannot anticipate
12 because like Mr. Marsh, if gas prices were still
13 where they were in 2008, this would have been a
14 much easier decision, but the downside to that
15 to the consumer is, power costs would be a lot
16 higher because gas costs would be a lot higher.
17 So our job has been focused on, every day at
18 Santee Cooper, to try to keep the costs as low
19 as we could.

20 SENATOR FANNING: Mr. Marsh, the
21 comparison with the school board and the
22 superintendent hiring a construction entity to
23 build a high school, \$200 million, and we walk
24 away, would there be any anger or frustration
25 toward the board and the executives, or would it

1 -- or would the public really be blaming only
2 the construction entity?

3 MR. MARSH: I think they would
4 look for blame wherever they could because they
5 would be emotionally upset, and I join Mr.
6 Carter. We're upset. We're very disappointed
7 where we are, and we've apologized for the
8 impact we've had on the customers and their
9 families and all those impacted by these
10 projects, especially the communities where they
11 live and specifically in your county, Fairfield
12 County.

13 we're not pleased with that, but
14 we have looked back at the decisions we've made.
15 We believe they were prudent decisions. We're
16 disappointed in the contractor because, you
17 know, Westinghouse did not live up to its
18 obligations. I mean, if Westinghouse had lived
19 up to its fixed-price contract and the
20 obligations they signed with us, we would still
21 be building these projects, I believe.

22 SENATOR FANNING: And we agree
23 with you. I think that, on behalf of us and on
24 behalf of the consumers, we never entered an
25 agreement with Westinghouse. We trusted you,

1 and then you trusted Westinghouse, and
2 Westinghouse abused your trust, and I do
3 understand that. Question, Mr. Marsh, did you
4 ever go to Mr. Dukes Scott's office and have him
5 sign a nondisclosure agreement before you showed
6 him the Bechtel Report?

7 MR. MARSH: No, I did not because
8 we believed that to be a confidential report
9 prepared in anticipation of litigation.

10 SENATOR FANNING: So to your
11 knowledge, he has not signed a nondisclosure
12 agreement.

13 MR. MARSH: Not with respect to
14 the Bechtel Report, no.

15 SENATOR FANNING: Thank you. Mr.
16 Carter, earlier, you were talking about the
17 selling of Santee Cooper, and you said you
18 didn't believe -- I appreciate your honest
19 answer -- that consumers would be better off
20 having it being sold to a private entity.
21 Today, we're kind of in a -- I guess "mess" is a
22 word we can use, and we had a public entity and
23 a private entity working together in this. How
24 did Santee Cooper as a public entity any better
25 protect us from this mess than a private entity

1 would?

2 MR. CARTER: I'm not sure how to
3 answer that question. I would say that I
4 believe that if we went into another project in
5 this manner that my experience would tell me to
6 seek maybe more flexibility in decision-making
7 and influence over the decision-making. I'm not
8 sure how much difference that would have made in
9 this particular case.

10 SENATOR FANNING: And I guess I'm
11 thinking of protections, is that SCANA went back
12 for nine rate increases while every information
13 we had access to, other than, evidently,
14 clearing ground -- we did great work on that --
15 but we were having some problems following a
16 schedule. We had five rate increases. There
17 was nothing, really, that safeguarded the
18 consumer any more from a public entity than
19 there was a private entity at this point.
20 wasn't it really information that we didn't have
21 that neither partner had, and we were equally at
22 the will of Westinghouse?

23 MR. CARTER: I would say in our
24 case, if anywhere along the way we see an
25 opportunity to reduce power costs, our board's

1 going to expect and be putting pressure on the
2 management team to do it. So I -- that
3 certainly is the way that we viewed this project
4 as well, all the way through doing everything we
5 could because once we were into this project, we
6 needed to complete it until we got this Toshiba
7 settlement, or we didn't -- or we ended up with
8 -- we didn't even get that \$2.2 billion. So --

9 SENATOR FANNING: I guess bottom
10 line is, how were Santee Cooper's customers,
11 consumers that also paid into these two
12 reactors, how were they any better protected by
13 a public utility than SCANA's customers as a
14 private utility? And that's the decision we'd
15 have to make, whether we sell it or not. How
16 were they better protected?

17 MR. CARTER: Well, I don't the
18 sale is best on -- based on better protected.
19 which one is going to provide the lower power
20 cost? I would think that's what you would be
21 looking for. At least, that's what I would
22 expect as a consumer.

23 The short answer is, Santee
24 Cooper, its management team, and board, is
25 solely focused on power costs to its customers.

1 It has no other -- it doesn't have to balance
2 between a shareholder -- we don't have
3 shareholders. So our decisions are always
4 focused on powers costs.

5 SENATOR FANNING: And by the way,
6 I love that. I guess I'm saying -- and Mr.
7 Lord, jump in here -- is, in reality of what
8 actually happened in the last several years, the
9 theory that we're going to protect them better,
10 how did we actually do that in practice? How
11 were our customers any better protected from the
12 result of ten years of rate increases for
13 something we're walking away from?

14 MR. CARTER: I don't know that I
15 can point to say that there's -- I don't see
16 that that's part of the, I guess, the value
17 chain of the decision. There are entities like
18 Santee Cooper around the country that themselves
19 have built power plants like we have, and so
20 we're responsible for them, we manage them, and
21 you do the -- you make the best decisions you
22 can to hold down the costs associated with
23 those. So I -- other than being -- we're
24 certainly a more transparent entity.

25 SENATOR FANNING: Mm-hmm.

1 MR. CARTER: That's for sure, and
2 that's not to cast any aspersions on anybody
3 else --

4 SENATOR FANNING: No.

5 MR. CARTER: -- but public
6 entities (INDISTINCT) --

7 SENATOR FANNING: But even
8 transparency really hasn't benefited us in the
9 last ten years, and I'm not blaming you. It
10 could be because you didn't have the information
11 to be transparent with. I'm just saying, in
12 reality, many of the supposed benefits of having
13 a public entity didn't work out for us this
14 time, maybe because you didn't have some of the
15 information you could be transparent with until
16 more recently.

17 MR. CARTER: The benefits of
18 public power are its business model, so the
19 number one is that our leverage, our cost of
20 money, is substantially less.

21 SENATOR FANNING: Mm-hmm.

22 MR. CARTER: You have local
23 control. The state actually controls Santee
24 Cooper ultimately. It sets the statutes and the
25 way that we're governed. So you have that. We

1 don't pay federal income tax. That's one of the
2 things that we don't pay. We pay the state a
3 fee that's effectively a tax and property tax
4 that are sums in lieu. And then there are other
5 benefits, particularly in the economic
6 development area, that we provide to the state.
7 So that's -- it's just -- the way I look at it,
8 it's a different business model.

9 SENATOR FANNING: I appreciate
10 it. That's what I wanted. Mr. Marsh, you said
11 it was always about the cost to our customers.
12 It may have been several hours ago when you said
13 it, but you said it was always about the cost to
14 our customers. After taking billions of dollars
15 of your customers' money, how are you going to
16 insure they get something back for that? I
17 asked it before, I'll ask it again, and I'm not
18 saying in the future, and we're going to try to
19 find a new gas plant that's going to be -- I'm
20 saying is, the return specifically of the
21 investment for the last ten years.

22 MR. MARSH: Again, the customer
23 has been paying for the financing costs
24 associated with the investment. The dollars put
25 forward to make the investment itself was done

1 by the shareholders and the bondholders. Our
2 goal is to minimize the impact of the decision
3 to abandon our plants on our customers. We
4 believe we made the right decision in abandoning
5 the plants because if we had pursued going
6 forward, that would have resulted in
7 significantly higher costs than we had
8 anticipated going into the project, so we were
9 making the decision to minimize the impact of
10 going forward.

11 We looked at that every time we
12 went to the Commission for a price or schedule
13 adjustment. We looked at it in 2012. We looked
14 at it at 2015 and 2016. I won't say every time
15 because there were other changes we made that
16 didn't involve these evaluations. But at '12,
17 '15, and '16, we evaluated whether it was more
18 prudent to go forward or to abandon the project
19 and look at some other alternative. It was --

20 SENATOR FANNING: And I get your
21 rationale. Please forgive for cutting you off.
22 The folks, when I leave here, they're going to
23 say, we paid 20 percent higher rates for ten
24 years. Hand me what I got for that. Point to
25 what I got for that. And I hear that we

1 protected them may against even further, more
2 horrible losses or something or a 41 percent
3 increase, but what can we, tomorrow, tell
4 consumer ratepayers that, regardless of who
5 refunded shareholders, their rates were 18 to 20
6 percent higher, what they got for that?

7 MR. MARSH: We ran a project to
8 build two new nuclear plants. That's what we
9 started to do. Unfortunately, we decided to
10 abandon those, based on the circumstances we
11 knew at the time. We did charge customers for
12 the carrying costs. Those dollars were used to
13 pay the bondholders and the shareholders the
14 cost of their money to invest into the project,
15 the carrying costs associated with that money.

16 I don't have a plant to provide
17 for them today. I can't disagree with that. I
18 don't have a plant to provide for them. We
19 worked to the fullest extent to deliver that
20 plant, and I believe we were online to be -- on
21 track to be able to do that had Westinghouse not
22 declared bankruptcy, but I don't have those
23 dollars to give back to them because they were
24 paid for those who invested the money into the
25 project.

1 SENATOR FANNING: Let's talk
2 about the dollars. At our last meeting, we
3 asked as a Senate committee, or what's left of
4 one, we asked both Santee Cooper and SCANA, we
5 asked both of you, you say that we can't afford
6 the cost of finishing the project. Y'all
7 remember those conversations?

8 MR. CARTER: Yes, sir.

9 SENATOR FANNING: And we wanted
10 to know, Just what is the cost? Is it eight
11 billion? Is it nine billion? And at the time,
12 you said, we don't know an exact cost but that
13 you'd bring that figure to today's meeting. So
14 what is the exact cost, give or take \$330,000
15 either way? What is the exact cost of
16 completing the plant? And the reason I ask is,
17 if we tell consumers we can't afford the cost,
18 we need to at least be able to tell them what
19 the number is that we can't afford.

20 MR. MARSH: I think we did
21 present these numbers in the last hearing, but
22 I'll be glad to give them to you again. We have
23 spent \$4.9 billion to date. Our analysis of
24 completing two units would 8.8 billion from our
25 perspective, and that's after subtracting 1.1

1 for the Toshiba guarantee. So for our
2 customers, that would be 8.8 compared to the
3 4.9.

4 SENATOR FANNING: Now, is that --
5 you said that's 8.8 --

6 MR. MARSH: Total.

7 SENATOR FANNING: -- new
8 additional dollars.

9 MR. MARSH: No, that's total, so
10 you take the difference between the 4.9 --

11 SENATOR FANNING: That's what I
12 want.

13 MR. MARSH: -- and the 8.8.

14 SENATOR FANNING: I'm guessing
15 that would be -- y'all help me -- that's 3.9?

16 MR. MARSH: 3.9, if I've done my
17 math right.

18 SENATOR FANNING: So you're
19 telling me that on your portion, it would take
20 \$3.9 billion to complete the project, plus a
21 partner with that percentage, but is that
22 correct?

23 MR. MARSH: That's our 55 percent
24 share. That's correct.

25 SENATOR FANNING: All right. Mr.

1 Carter?

2 MR. CARTER: The numbers that
3 we've submitted to complete both units is 2.4
4 billion, \$2,401,000. That is for bricks and
5 mortar. That does not include interest during
6 construction. If you recall from my testimony
7 earlier, interest during the construction, when
8 the schedule goes longer, becomes a bigger
9 component than the component of the actual
10 construction, the actual bricks and mortar.

11 SENATOR FANNING: I understand
12 that, and I understand you can't give me that
13 exact figure, but this helps. So 3.9 billion
14 plus 2.4 billion is 6.3 billion? Anyone doing
15 -- all right, we'll just say it's 6.3 billion.
16 So it would take \$6.3 billion to complete the
17 project, and we're saying that Santee Cooper
18 cannot afford to pay another \$2.4 billion to
19 receive 45 percent of the energy out of two
20 nuclear reactors for the next 80 years; is that
21 correct?

22 MR. CARTER: No, sir. I wouldn't
23 phrase it that way. The cost associated with
24 finishing the units, which would be that cost
25 plus the interest cost, would be greater than

1 our alternatives.

2 SENATOR FANNING: Mm-hmm.

3 MR. CARTER: Just the cost to
4 finish it and the rest of the interest on that
5 piece would be more that it would cost to get an
6 alternative power supply, so again, going back
7 to making sure that when we're at decision
8 points that we make a decision that gives the
9 customer the lowest power cost. That's why if
10 eight, ten years from now, whenever, as people
11 are looking at what we need to do to provide
12 power, they will look at that facility and say,
13 what will it cost to finish it? How does it
14 compare to what my other alternatives look like?

15 That's the nature of the way this
16 business works. So it's -- you're always making
17 decisions as you go along the way based on --
18 that's why we used that terminology, "based on
19 the best information we had at the time" because
20 you're always -- I won't say "always," but there
21 are decision points along the way where you have
22 to make that judgment and those calls about,
23 what does the math tell you?

24 SENATOR FANNING: All right, and
25 Mr. Marsh --

1 MR. MARSH: Yes.

2 SENATOR FANNING: -- you and Mr.
3 Carter last time said there were numerous
4 variables. Well, actually, I apologize; Mr.
5 Byrne, you talked about numerous variables,
6 correct? It wasn't just the cost. We talked
7 about some other things as well. And so just --
8 we don't have to go in-depth, but can you list
9 them again? We talked about federal tax
10 credits. Was that a variable that we mentioned
11 last time?

12 MR. CARTER: Yes, sir.

13 SENATOR FANNING: We talked about
14 fixed contract.

15 MR. CARTER: Yes, sir, we -- and
16 if I might --

17 SENATOR FANNING: Sure.

18 MR. CARTER: -- it's even -- I
19 think, again, I'm going to hearken back to the
20 fact that another project's going forward. The
21 Chinese are still building these things and
22 trying to bring them online. The fact that
23 we're pausing now may actually give us a better
24 guide or better estimate in the next few years
25 about what these numbers really look like

1 because our contractor is in bankruptcy.

2 So I, again, I've dealt with
3 industrial customers that have been in
4 bankruptcy, and sometimes the customer that
5 comes out of bankruptcy is not anything like the
6 customer that went into bankruptcy, and we would
7 be very dependent on Westinghouse, no matter who
8 -- whether you get Bechtel as they're doing down
9 in Georgia or if we brought Fluor back or
10 whomever we brought back to actually do the work
11 on the site. As we've already talked about
12 today, they are very dependent on the party
13 that's providing the engineering, which
14 effectively makes the work packages, and this
15 technology. So --

16 SENATOR FANNING: You mentioned
17 the intellectual property that Westinghouse
18 holds. Mr. Byrne, earlier, you stated that even
19 if we had cause to terminate, the most horrible
20 cause in the world -- I can't imagine anything
21 more horrible than what we're going through now,
22 but suppose we have that -- that our contract
23 allows Westinghouse to keep the intellectual
24 property. Did I state that wrongly that you
25 said earlier?

1 MR. BYRNE: If we terminated for
2 cause, then that would allow us, effectively, to
3 get out without paying penalties --

4 SENATOR FANNING: Mm-hmm.

5 MR. BYRNE: -- to Westinghouse
6 and costs to Westinghouse, that kind of thing.
7 The issue of the intellectual property is, it's
8 escrowed with a third party, and then there are
9 triggering events that would -- that we would
10 say, Okay, we met these triggers, and the
11 Westinghouse has a number of days or weeks to
12 come back and say yes or no, you did or didn't
13 meet those triggers. But them still being in
14 business, unfortunately, under bankruptcy
15 protection, doesn't, in and of itself, allow us
16 access to that intellectual property. Now, had
17 they declared a different form of bankruptcy and
18 not been in business still, then we could have
19 gone after the intellectual property.

20 SENATOR FANNING: I just want to
21 follow up from the Senator from Edgefield's
22 question four hours ago, and that was that we
23 signed a contract that allowed us to terminate
24 with cause and still not have easy access to
25 intellectual property to finish the job; is that

1 correct?

2 MR. BYRNE: Well, ordinarily,
3 when you sign a contract like this, you don't
4 get intellectual property. Our concern was, if
5 Westinghouse was not there as an entity to
6 finish, we would need to finish it with
7 somebody.

8 SENATOR FANNING: Right.

9 MR. BYRNE: So as long as they
10 still exist in some form, they are going to
11 resist us having that intellectual property
12 because they consider that their bread and
13 butter, their crown jewels.

14 SENATOR FANNING: We talk about
15 how we make these decisions in the best interest
16 to the consumers and the citizens of South
17 Carolina. How is signing a contract that --
18 with a company that we could terminate with
19 cause because they're doing a horrendous job and
20 we have no way of accessing the intellectual
21 property, how is that possibly in the best
22 interest of consumers?

23 MR. BYRNE: Well, first off, let
24 me go back to what I said before. It's not
25 normal for a contract of this kind to have in it

1 an intellectual clause -- provision like this.
2 Best of our information is that the other
3 project being built in Georgia didn't have one
4 of these provisions in it. So it does afford
5 some protections should Westinghouse have not
6 been available. The most catastrophic event, as
7 you describe, would be they're in a bankruptcy
8 such that they don't continue with operations.
9 But unfortunately, under Chapter 11, they intend
10 to continue operating.

11 SENATOR FANNING: All right.

12 MR. BYRNE: So the termination
13 for cause is -- are fairly standard contractual
14 language. You can terminate for cause. You can
15 terminate for convenience. The contractor could
16 terminate if they had cause. We made sure that
17 they didn't have cause to terminate against us.
18 But, you know, a termination for cause would
19 mean that we would decide not to continue with
20 the project, so there wouldn't necessarily be a
21 need for intellectual property. So I don't
22 think it's -- they're at odds with each other
23 that we have an intellectual property clause and
24 we have a termination for cause provision in the
25 contract.

1 SENATOR FANNING: All right,
2 thank you, and just finishing this variable
3 question out, we talk about today how we don't
4 think we're giving up yet. We can mothball the
5 project. It'll cost me \$5 million to keep
6 things warm, hanging on hooks, whatever that is.
7 We've talked about how that is a possibility,
8 but before we leave here today, we say we cannot
9 afford the \$6.3 billion. We don't have that
10 amount of money, and we can't afford to pass it
11 on, but that there are other variables like the
12 federal tax credits, fixed contract, nuclear
13 regulatory oversight. What other variables? I
14 want to make sure I'm not missing any.

15 MR. MARSH: I think, overall,
16 since you no longer have the fixed-price
17 contract, all the risk that you effectively
18 transferred to Westinghouse now would come back
19 to the owner of the project, and if we decided
20 to go forward, we would bear all those risks,
21 and the cost of completing it would ultimately
22 be borne by our customers.

23 I know in the Georgia power
24 project, when they've gone to file with their
25 commission to continue, it is their intention to

1 continue, but many of the provisions we're
2 talking about, they're asking for the commission
3 to approve their price of \$19 billion, subject
4 to receiving the Toshiba parental guarantee,
5 subject to qualifying for the production tax
6 credits, and subject to obtaining an additional
7 -- I believe it's DOE loan guarantees.

8 So they're trying to manage some
9 of those risks in their filing with the
10 commission. If one of those doesn't turn out,
11 it's my understanding that they no longer have
12 to go forward with the project, that they don't
13 have a fixed price, and to -- in my mind, giving
14 up that risk at this stage of the project would
15 be a factor that would limit your ability to go
16 forward.

17 SENATOR FANNING: Well, what are
18 you asking for? It's just that I don't see us
19 ever returning the money, the billions of
20 dollars to the consumers, so the only way to do
21 it is to finish the project. And whether we
22 finish it today or in a year, what is the
23 proposal from Santee Cooper and from SCANA that
24 says, These are the six things we will need to
25 finish the project? We've talked about

1 variables.

2 MR. MARSH: I don't think we're
3 in a position to finish the project today
4 because economically, I can't justify that as
5 the best alternative for my customers.

6 SENATOR FANNING: Because the
7 price of gas and coal went down, etcetera,
8 etcetera, etcetera. We never asked them that
9 when we raised their rates ten years ago.
10 There's -- is that we're saying now we have
11 -- we've found cheaper things, and so even
12 though you contributed billions of dollars over
13 ten years, now, because something else is
14 cheaper, we're going to literally walk away,
15 leave two beautiful cylinders, by the way, in
16 Fairfield County. You're going to leave them
17 there, hopefully mothball them, and we won't
18 raise your rates again, and we'll just keep
19 going.

20 MR. MARSH: That evaluation was
21 done in 2008. We went to the Commission based
22 on a couple of years of evaluation to decide
23 that nuclear was the best decision for
24 customers, the lowest cost alternative for
25 customers, and that was about a three-week

1 proceeding. I think I've said over 20-plus
2 witnesses, a lot of testimony for and against
3 the project, but the Commission ultimately ruled
4 that this was the lowest cost. They accepted
5 our contention, based on the evidence in the
6 record, that this was the lowest cost long-term
7 project for our consumers. That's when those
8 questions were asked, based on gas prices when
9 they were high at the time. They were based on
10 --

11 SENATOR FANNING: Mr. Marsh, if
12 my kid wants to go college and I second mortgage
13 my house and for four years I make mortgage
14 payments on that for that kid to go to college
15 and four years later, he says, Oh, by the way, I
16 don't want to go to college, I don't know that
17 I'm letting him say he's not going to college.
18 He's going to college because I've already spent
19 the money. I've already taken the loan.

20 what do we tell parents across
21 South Carolina that literally were paying 18 to
22 20 percent higher rates for an investment that
23 we're going to -- that is more done than it's
24 not done, that we're going to just walk away
25 from and that we don't even have a plan in place

1 that says, These are the six things that we need
2 to finish the project? How can you possibly
3 look at folks across South Carolina and say, We
4 can't do it now, we either need to abandon or we
5 need to mothball it for ten years because we
6 can't afford to do these six things when you
7 can't even tell me what the six things are?

8 MR. MARSH: I don't necessarily
9 agree with that because we have outlined the
10 risks associated with the project, the things
11 that we would need --

12 SENATOR FANNING: You're giving
13 me the reasons to walk away. I want to know
14 what it would take to finish the project, and
15 then you can point to it and say, That's
16 impossible. But you at least need -- for me to
17 know it's impossible to complete, you need to
18 show me what's impossible.

19 MR. MARSH: Well, I can just flip
20 the risk around and say, I need a contract in
21 place, and put a dollar amount on that contract,
22 which we've estimated that cost. Our teams have
23 gone through and estimated that cost. I need to
24 have assurance from the federal government that
25 they're going to pay me my production tax

1 credits. I need to be able to recover the
2 dollars from Toshiba, if that's done, and I need
3 to have the Commission approve all of those
4 dollars in advance of me spending those dollars
5 so that I can raise the cash from the
6 marketplace to make the investment in the
7 plants. If I had all of those, I'm certainly in
8 a position to go forward.

9 what we've tried to explain is,
10 even if I had all of that, if somebody walked in
11 here today and said, You know, we'll finance
12 this project, we're going to give you the value
13 of the production tax credits, and I'm going to
14 pay you the parental guarantee up front, even in
15 that circumstance, we did the economic analysis
16 to compare the cost to our consumers, or our
17 customers, of completing the plants versus
18 abandoning the plants, and it's not in their
19 best interest, based on what we know today, even
20 if all those risks are taken care of. We don't
21 believe it's economically in their best
22 interest.

23 SENATOR FANNING: what makes it
24 in their best interest then? what would make it
25 in their best interest to finish it? So you're

1 saying that there's nothing on planet Earth that
2 would make it in their best interest to finish
3 the plant.

4 MR. MARSH: No. If we had the
5 fixed-price contract in place today, I believe
6 that would make it in their best interest to go
7 forward, and we had all the production tax
8 credits to go with it.

9 SENATOR FANNING: Mr. Carter,
10 would you agree with many of those variables?
11 He mentioned contract in place, \$6.3 billion,
12 assume production tax credits, recover Toshiba
13 dollars, Commission approved in advance, fixed-
14 price contracts.

15 MR. CARTER: All those things he
16 -- and I would think we probably would want some
17 way to lay off some of the risk because we've
18 still got this contractor that's in bankruptcy.

19 I want to try to answer your
20 question --

21 SENATOR FANNING: Mm-hmm.

22 MR. CARTER: -- and get at maybe
23 a little bit differently what I think you're
24 trying to get at. What will make somebody go
25 back and finish these units? The short answer

1 is that either the cost of the unit and the time
2 to build it must get to be less, and remember,
3 part of -- that could happen because we're going
4 to see whether Vogtle, the folks down in
5 Georgia, can -- what happens with them and what
6 it takes to build it and get a better idea then
7 from what it would take to build one of these
8 things. So that's -- so when I say that, that's
9 not out of the realm of possibilities in the
10 next few years.

11 So -- and also to build it
12 quicker because remember, I told you the cost
13 associated with building these units also
14 includes the time frame that it takes to build
15 them. So one thing that could happen to make
16 somebody finish them is the cost, the estimated
17 cost to build it, vendors that prove they could
18 build it, and the time frame to build it in to
19 be less. So I'd look at that. That's on the
20 cost side.

21 The other side would be, what are
22 the other alternatives that are out there? So
23 gas prices could go up; that's one. Regulations
24 could require us to close other facilities,
25 other coal facilities, other things. I consider

1 -- I look at that sort of on the other side of
2 the equation. The bad news about that stuff
3 over here is it means power costs are going up.
4 So the customer would be paying more for
5 electricity. Their electricity bills would be
6 higher than they are today.

7 And so that's what Santee Cooper
8 and its board is about, trying to look at and
9 deliver the lowest power cost it can and to --
10 and as it makes decisions, to try to make sure
11 that that's what it's doing. So at some point,
12 somebody may come back to this asset and say,
13 You know, if you compare it to my other
14 alternatives, it's the cheapest thing to do.
15 It's the best thing to do to keep power costs
16 low. I hope that tries to answer your question.

17 SENATOR FANNING: Yes, and I
18 think the reason South Carolinians are
19 frustrated is that we hear that we -- it's
20 prudent to build the plant. We ask for a rate
21 increase; we get one. It's prudent two years
22 later to build a plant. We get, or ask, for a
23 rate increase; we get one. Or we ask ourselves
24 for rate increase, and we approve it ourselves.

25 Then two years later, we ask for

1 a rate increase. I mean, we determine it's
2 prudent to build a plant, and then all of a
3 sudden, it's no longer prudent to build a plant,
4 and we don't walk, we run and determine that
5 it's prudent to walk away from a plant -- from
6 two reactors that are more done than they're not
7 done.

8 And so if, by the next meeting,
9 you could specifically state, These are the
10 variables we need to complete the plant, and the
11 reason we want to abandon it is we can't get
12 movement on that -- because if it were the
13 federal tax credits and that was one of the
14 factors, we could either leverage our delegation
15 to pass it, or we could create tax credits for
16 the same amount to make sure that was given for
17 it.

18 Give us a chance to be a part of
19 a solution which you -- which, I don't want to
20 look at you, but neither of you gave us the
21 chance up front by coming to us, saying, These
22 are problems so severe that for ten years, it
23 was prudent to do it, and all of sudden, it's no
24 longer prudent. Give us a chance to look at the
25 six variables to say, what can we control? what

1 can we help to make sure that those options are
2 done?

3 Because my number-one goal is
4 that consumer ratepayers either deserve several
5 billion dollars back in cash, or they deserve
6 what they were promised, and that is to complete
7 that work that is done. Short of that, I don't
8 see how they're ever going to get repaid. The
9 only thing we'll get, as Mr. Marsh said, is an
10 attempt to hopefully mitigate any future rate
11 increases there.

12 I know I've gone long. I do have
13 one question for Mr. Scott. If Mr. Scott could
14 come up, I did have one question there. I just
15 wanted to confirm Mr. Marsh's answer earlier.
16 Did you ever see the Bechtel Report, and were
17 you ever asked to sign a nondisclosure
18 agreement?

19 MR. SCOTT: Is it working? Is it
20 working? Oh, okay. Would you ask me that
21 again?

22 SENATOR FANNING: Sure, sure.
23 This is the follow-up to Mr. Marsh's answer
24 before. I wanted to know if you had ever seen
25 the Bechtel Report prior to the recent release,

1 and were you ever asked to sign a nondisclosure
2 agreement regarding that?

3 MR. SCOTT: No, sir, on both
4 counts.

5 SENATOR FANNING: Thank you.
6 Thank you. And I'll close with these, and this
7 is for both Mr. Carter and Mr. Marsh. Do both
8 of your companies make every effort to try to
9 buy locally?

10 MR. CARTER: Yes.

11 SENATOR FANNING: If so, what do
12 you estimate you spend in the State of South
13 Carolina? Mr. Carter?

14 MR. CARTER: I couldn't estimate
15 that because it changes frequently, but we can
16 get you some information on that if you'd like.
17 We can compile that.

18 SENATOR FANNING: Okay.

19 MR. MARSH: I don't happen to
20 know that either, but we'll be happy to get some
21 information back to you.

22 SENATOR FANNING: All right, and
23 then the last one, what is your respective
24 economic impacts on the state, just in general?
25 We were talking -- we'll start with you, Mr.

1 Carter, because you were talking about the
2 purpose of a public utility. What is your
3 economic impact on South Carolina? Not
4 necessarily personally.

5 MR. CARTER: I'm not sure I have
6 an answer for that. I mean, some -- that --
7 we'd need --

8 SENATOR FANNING: We talked about
9 your importance to the State of South Carolina
10 as a public utility. What do you see as the
11 importance of Santee Cooper in terms of economic
12 development for the State of South Carolina?

13 MR. CARTER: Well, our importance
14 is to help recruit jobs, which we certainly have
15 done and done in conjunction with the electric
16 cooperatives in the cities that we serve
17 wholesale and ourselves, so that is certainly one
18 place that we bring value. Other -- some people
19 think we bring a lot of values by managing and
20 operating two lakes. And of course, I think we
21 improve the quality of life for the people of
22 the state, simply by providing electricity.

23 SENATOR FANNING: Thank you.

24 MR. CARTER: Electricity, when it
25 -- excuse me -- I'll offer up this one other

1 thing. Electricity, when it started out, was a
2 convenience. Today, we can't live without it,
3 as we can see from the storms that we've just
4 had recently here ourselves and, of course,
5 those in the last few weeks in Florida.

6 So that's why I think it -- our
7 -- the Santee Cooper board and the chairman may
8 want to speak to this, but it takes very
9 seriously this responsibility to try to keep
10 power costs low. Every decision -- I can tell
11 you, I have been driven to that my entire career
12 at Santee Cooper, and it starts with the board.
13 They get it.

14 SENATOR FANNING: Mr. Marsh?

15 MR. MARSH: We have an obligation
16 to serve the customers of the state. We take
17 that seriously. As I've said before, and Mr.
18 Carter has also alluded to, we make our
19 decisions with the best interest of customers in
20 mind. We also have a huge role to play in
21 economic development. We're actively involved
22 in a variety of companies that come to seek to
23 locate in South Carolina. We work through the
24 Department of Commerce and other economic
25 development roles and groups to try to help make

1 that happen.

2 I mean, we need to be here when
3 our customers need us, whether it's evidenced by
4 a huge storm that we have that takes out a
5 hundred or 200,000 customers at a time or if
6 it's ten or 20 customers at a time. Our team
7 has to be prepared to respond to those needs and
8 make sure we're there when the customers need
9 us.

10 SENATOR FANNING: And on behalf
11 of the State of South Carolina, we appreciate
12 the work that y'all have done recently in
13 response to the storm. When we talk about cost,
14 this old social studies teacher in me remembers
15 the lesson of opportunity costs. There's not
16 just the cost of doing something in the future.
17 What is the -- what is the opportunity cost of
18 what we don't do? And so, Mr. Marsh, what is
19 the cost of not finishing the reactors?

20 MR. MARSH: Well, the cost is, we
21 have some risk going forward, depending on what
22 the federal government decides to do with
23 environmental legislation. We started these
24 projects in an effort to mitigate the impacts of
25 any potential litigation -- I mean, legislation that

1 came out. We saw the Clean Power Plan, which
2 validated the needs for these plants.

3 I think I would agree with Mr.
4 Carter, we've seen that subsidy for the time,
5 but I believe it's coming back, and we're going
6 to need to be able to address that, so I think
7 the opportunity cost of not being able to go
8 forward with these plants is, the state still
9 bears some of the risk that we had hoped to
10 eliminate going forward with environmental
11 regulations.

12 CHAIRMAN SETZLER: All right.
13 Senator from Dorchester, waited and been very
14 patient. Thank you.

15 SENATOR BENNETT: Mr. Chairman,
16 I'm going to do you a favor and yield my time.

17 CHAIRMAN SETZLER: Senator from
18 Oconee is next. Senator from Oconee.

19 SENATOR ALEXANDER: Thank you,
20 Mr. Chairman, and I'm going to almost do that.
21 I'm going to be very, very brief. Just two or
22 things I wanted to follow up with you on, and I
23 guess it goes back to, originally, the contract
24 and what you were having with the discussion
25 with the Senator from Fairfield kind of

1 (INDISTINCT) answer. Even, I think, with the
2 technology or the type of work that Westinghouse
3 had, if I understand you correctly earlier, you
4 -- even if they weren't and not meeting the
5 deadlines or not meeting other components of the
6 contract, that would not have gotten you to a
7 point where you would have wanted to terminate
8 the contract?

9 MR. MARSH: And I'll let Mr.
10 Byrne respond to this, too, but from my
11 perspective, you know, once we identified an
12 issue, we would work hard with Westinghouse and
13 the consortium to figure out the best way to
14 solve that problem. If the problem could not be
15 resolved or was not resolved in a timely
16 fashion, we would have to evaluate the impact on
17 the total effort of completing the projects.

18 I'll give you one example we've
19 talked about a number of times today, was the
20 structural modules that were a critical part of
21 building the plant. There were certain steps
22 that couldn't be taken until those modules were
23 fabricated and were put into place. In other
24 words, you almost have to have the foundation in
25 before you start putting the equipment and the

1 other components that go in that foundation.

2 As we struggled to complete those
3 components, or as Westinghouse and the
4 consortium team struggled to complete those
5 components, that had an impact on the schedule.
6 So when we saw that impact on the schedule, our
7 first response was to stop the cost associated
8 with those modules not being delivered on time,
9 so we fixed the price on that and said, If it
10 goes above that cost, you're going to have to
11 absorb that. And then you would have to ask
12 yourself, Is there an opportunity to rearrange
13 other steps in the schedule to mitigate the
14 impact of those components not being here on
15 time in the overall project schedule?

16 Sometimes that could be done.
17 Sometimes, depending on what the issue was, you
18 couldn't make up that time, and that's what
19 would result in a schedule delay. And so we had
20 to evaluate those every time going forward. But
21 each time we had major changes in the cost, for
22 a variety of issues, whether it was something on
23 the structural modules, we would evaluate, Does
24 it make economic sense to go forward, or should
25 we abandon the project at this point and look at

1 some other alternatives?

2 So we looked at that every step
3 of the way, and that's a very simple example,
4 but that's one of the examples we've talked
5 about a lot on the modules that would have had
6 an impact on that decision.

7 SENATOR ALEXANDER: Okay. Did --
8 help me here. Did y'all feel -- or make sure
9 I'm clear on this. Did y'all feel at any time
10 that the people that you had, Westinghouse, were
11 withholding information from y'all?

12 MR. MARSH: I don't know that we
13 felt like that initially, in the early stages of
14 the project, but as we got further into it, Mr.
15 Carter and I were both suspect that they were
16 sharing everything we wanted to see. A lot of
17 times, they would indicate, This is proprietary.
18 Under an EPC contract, or especially when we
19 went to the fixed-price contract, you typically
20 don't get to see behind the curtain because
21 they've assumed all that risk. And I know we
22 would have loved to have seen behind the curtain
23 earlier to understand what some of the concerns
24 they had were.

25 SENATOR ALEXANDER: So would that

1 not -- and I guess that kind of leads to my next
2 question. As far as, you had other folks, and
3 y'all made the agreement to come in and have
4 Fluor become a part of the project from that
5 standpoint. Did y'all have information -- did
6 you have direct access for information that they
7 had as a -- would you -- wouldn't be considered
8 a subcontractor. What would you call their --

9 MR. MARSH: Well, Fluor was a
10 subcontractor to Westinghouse, so our contract,
11 when Chicago Bridge & Iron exited the
12 consortium, our contract essentially was with
13 Westinghouse, and so we didn't have access to
14 all of their subcontractor information.

15 SENATOR ALEXANDER: Is that not
16 unusual? I'm trying to think of, on a smaller
17 process -- construction project, if you go out
18 on the site, even, you know, if they're working
19 for someone else, if you wanted directed access,
20 why would that be the case, that you wouldn't
21 have direct access?

22 MR. MARSH: I think we would have
23 access, but I can let Mr. Byrne give you more
24 detail.

25 MR. BYRNE: Senator Alexander, we

1 did have access to Fluor personnel. Fluor
2 personnel participated in meetings.

3 SENATOR ALEXANDER: I'm talking
4 about information.

5 MR. BYRNE: Yeah, well, some of
6 the information -- remember, when a contractor
7 gives you a fixed prices and they go closed
8 book, then they don't necessarily want you
9 seeing all the information that's behind those
10 closed doors.

11 SENATOR ALEXANDER: That's kind
12 of what Mr. Marsh was saying; okay.

13 MR. BYRNE: Yeah, and in a lot of
14 cases, that may be their opportunity to make
15 more money on the project if they secure
16 commodities at better rates, for example, if
17 they want to play the commodities market. I
18 don't think that was going on in this case. But
19 Westinghouse was certainly leery to give us some
20 of the information that they considered
21 proprietary because we fixed the price, and they
22 went closed book.

23 SENATOR ALEXANDER: So I guess,
24 is there anything -- I understand that from the
25 price standpoint, but would there not be other

1 work going on on the project that would be of
2 value as to, you know, whether the information,
3 the data that was being provided by Westinghouse
4 could be verified by someone working as a
5 subcontractor? It's -- get away from the price.
6 I understand that about the price, but how about
7 just general -- were you able to have the
8 ability to go out and carry on a conversation
9 with a subcontractor on the site?

10 MR. BYRNE: We did have the
11 ability to have access to subcontractors, not
12 just at the site, but at fabrication facilities
13 around the country or around the world. Our
14 contract gave us access to those facilities. So
15 we could go and have a conversation with the
16 Fluor personnel, but their contract was with
17 Westinghouse, and they did occasionally let us
18 know that that information would have to come
19 from Westinghouse.

20 when we got into this schedule
21 validation -- because we were looking to do
22 exactly what you said, have somebody else that's
23 now new to the project with a vast amount of
24 experience give us the backup information to
25 verify that Westinghouse was giving us the

1 accurate information. And we pressed them for
2 that and did not get it. And, you know, I would
3 suspect that Fluor probably gave Westinghouse
4 some information that they either didn't like or
5 didn't agree with, which was why they were
6 delayed in giving us the information that we
7 requested on the integrated project schedule.

8 SENATOR ALEXANDER: Okay. One
9 more for y'all, or just an observation. If I'm
10 reading this chart that y'all provided, the time
11 line that was provided, and I think it kind of
12 gets back to your discussion a little bit
13 earlier. If I'm reading this correctly, it was
14 in March of 2008 that y'all applied to the
15 Nuclear Regulatory Commission to build the two
16 reactors.

17 MR. BYRNE: That's correct.

18 SENATOR ALEXANDER: Okay. And
19 then it was -- am I reading it -- basically it
20 was four years later, March of 2012, when the
21 NRC actually gave the approval for the
22 construction.

23 MR. BYRNE: Four years; that's
24 correct.

25 SENATOR ALEXANDER: So -- and I

1 would assume that there was a lot of work and
2 effort, a lot of back-and-forth during that
3 period of time that went on before you got to
4 that point. It's not like you send in the
5 application one day and you're waiting for a
6 period of four years to get that information.

7 MR. BYRNE: No, no. There was a
8 lot of back-and-forth, a lot of validation. We
9 had hearings in the meantime. They had resident
10 inspectors at the site. They sent teams to the
11 site. We had a significant amount of
12 interaction with the NRC and the federal
13 government before that license was issued.

14 SENATOR ALEXANDER: A couple of
15 other questions here. I'm going to follow up,
16 Mr. Carter, if I could. Going back, I think it
17 was with -- from the Senator from Edgefield when
18 he asked you the question, Did you -- were you
19 having pressure, political pressure, I think he
20 said, to move forward with the project from
21 y'all's standpoint? And your answer was no,
22 from that standpoint. I guess my question is,
23 Did y'all have pressure from any entity or
24 anybody that would have -- you would classify as
25 pressure for y'all to move forward with that,

1 outside of even the political realm?

2 MR. CARTER: I think actually my
3 testimony was, yes, that we knew that these
4 projects had what I called support.

5 SENATOR ALEXANDER: Was support,
6 but not -- yeah. I mean --

7 MR. CARTER: I guess maybe in, at
8 least in my experience, maybe you need to define
9 what you mean by political pressure. No elected
10 official came and said, You've got to, you know,
11 You got to go do this.

12 SENATOR ALEXANDER: It was more
13 the environment that you saw as far as in
14 Washington, the -- I mean, encouraging things
15 from that standpoint; is that --

16 MR. CARTER: And even here. I
17 mean, you know, people felt like these were
18 important to the future of the state and were
19 encouraging us to try to get them done.

20 SENATOR ALEXANDER: You mentioned
21 as well, I think, back -- as some of the
22 components that you considered, maybe it was
23 back in 2012, you had the -- I didn't write a
24 date by there, so I may be wrong here. You had
25 started to see a load decline? And maybe that

1 was in conjunction with your rate increases?

2 MR. CARTER: No, sir, I don't
3 think we could say that we tied them to the rate
4 increases. We were able to reach an agreement
5 with the electric cooperatives that allowed them
6 to take some load off of our system and take it
7 back to another utility which had had it
8 originally. So that was a portion of it.

9 SENATOR ALEXANDER: I -- go
10 ahead.

11 MR. CARTER: A fairly large
12 piece, and then, of course, when the recession
13 came in at the end of 2008 and 2009, that's when
14 we started to see a fair amount of reduction as
15 well. Quite frankly, our industrial customers
16 have just really recovered from that --

17 SENATOR ALEXANDER: At that time.

18 MR. CARTER: -- in the last year
19 or so.

20 SENATOR ALEXANDER: well, I think
21 maybe what I was getting at, that you needed to
22 increase -- one of the rate increases, maybe,
23 that you talked about was in conjunction with,
24 you'd seen a decline in your load from that
25 standpoint.

1 MR. CARTER: Yes, sir. That is
2 correct, yes, sir. In fact, it was the largest
3 piece of the 15 percent.

4 SENATOR ALEXANDER: So I guess my
5 question is, having a few years in business
6 myself, seeing business go down here and there,
7 unfortunately, and come back, did you have any
8 other -- other than increasing the rates, did
9 you cut costs in any way as a part of that
10 consideration, rather than just increasing rates
11 during -- to address that?

12 MR. CARTER: Yes, sir. The board
13 drove us very hard to -- because we were having
14 to see rate increases because of lost of sales,
15 to actually try to recruit -- to reduce what we
16 called our non-fuel O&M. What -- you know,
17 whatever fuel you burn, that's a -- as we say,
18 that's a pass-through. We've got to, you know,
19 burn fuel or purchase power to make electricity.
20 Our bond costs, our capital costs are fixed --

21 SENATOR ALEXANDER: Fixed costs,
22 right.

23 MR. CARTER: -- over time. But
24 there are some things we can do, and we did do
25 some stuff to try to structure debt and to make

1 sure that we balanced that out as much as could
2 as well and took the opportunities that we could
3 there. But most of it was done through non-fuel
4 O&M, which is roughly about 400, \$450 million of
5 our cost structure, to give you some idea --

6 SENATOR ALEXANDER: Of the total
7 costs.

8 MR. CARTER: -- of the total
9 amount that we were working on. So it's -- I
10 think it's about 20 or 25 percent of our total
11 overall costs.

12 SENATOR ALEXANDER: Could you
13 maybe just provide it at a later date, before
14 our next meeting or whatever, maybe the
15 percentage of what you saw on the reduction of
16 costs as a result?

17 MR. CARTER: Yes, sir. In fact,
18 I think we've provided that. I believe we have
19 that. Just give me a second. I believe that
20 it's --

21 MR. LORD: Senator, if I can add,
22 we asked staff to push cost-savings all
23 throughout the company, including closing retail
24 offices, which is very unpopular. And I know at
25 least one year there was a pretty large saving

1 in non-fuel O&M. I don't know what that number
2 was, but it was --

3 MR. CARTER: So it was \$20
4 million.

5 SENATOR ALEXANDER: Twenty
6 million.

7 MR. CARTER: The load decline of
8 the 15 percent is 13.7.

9 SENATOR ALEXANDER: Okay, and so
10 what does that end up being in dollars, from
11 that standpoint? Because on the one hand, you
12 cut costs by 20 million. I was just wondering
13 what the -- and you can get it later. It's just
14 --

15 MR. CARTER: Our revenue was
16 somewhere between 1.8 and \$1.7 billion, so.

17 SENATOR ALEXANDER: About a
18 hundred and something.

19 MR. CARTER: Yes, sir.

20 SENATOR ALEXANDER: Eighty, two
21 hundred million, something like --

22 MR. CARTER: Yes, sir.

23 SENATOR ALEXANDER: Okay all
24 right. Thank you. Thank y'all.

25 CHAIRMAN SETZLER: Senator from

1 williamsburg.

2 SENATOR SABB: Thank you, Mr.
3 Chairman. I'd like to just direct just a few
4 questions, and one kind of follows up on some of
5 the inquiries earlier, both by -- in our first
6 hearing, a question posed by Chairman and then
7 today, a question posed by the Senator from
8 Horry relating to the bonuses or incentives.

9 I got to be candid. I'm a little
10 disappointed and (INDISTINCT) in that the
11 question was specifically asked the last time
12 relating to this project, and I know that
13 sometimes, compensation is not something that
14 likes to be publicly discussed, but for us to
15 have broached the issue the last time and come
16 back this time and have no more information
17 doesn't help us. I think it's an issue of
18 public interest as to how much compensation was
19 paid specifically for this project.

20 And so I guess my question would
21 be, out of the 600 and some-odd thousand dollars
22 that both you and Mr. Byrne received and out of
23 the 1.4 or so million dollars that Mr. Marsh
24 received, what percentage of that relates to
25 this project?

1 MR. ADDISON: So in my case,
2 specifically, as I said earlier, in 2016, 30
3 percent of mine was associated with new nuclear
4 project. It had ranged from -- that was the
5 highest year, and in other years it had been 10
6 percent.

7 SENATOR SABB: All right, so
8 \$180,000 then in 2016. Then 62 or so thousand
9 dollars the years starting when?

10 MR. ADDISON: Well, it varies
11 each year because it is an incentive-based upon
12 what occurs. So it's not a set amount of
13 dollars per year. It's based upon what's
14 accomplished. But on a percentage basis, I
15 don't have the dollars in front of me, but in
16 2015, it was 10 percent. Generally, in my case,
17 it was around not the construction of the
18 construction of the project, obviously, but
19 around raising the investment from bondholders,
20 shareholders. Specifically in 2016,
21 implementing the research and development tax
22 credits that helped minimize rate increases for
23 customers, those type things that were financial
24 related.

25 SENATOR SABB: Yes, sir, so what

1 I'd be interested in would be the time table
2 associated with those incentives and when they
3 were received and how much. You can provide
4 that, right?

5 MR. ADDISON: Absolutely, and
6 frankly, I thought we had already provided that
7 to staff, but we will make sure that is done
8 promptly.

9 SENATOR SABB: Mr. Byrne, same
10 question, please.

11 MR. BYRNE: Yeah, and I'll give a
12 similar answer. The portion of the incentive
13 comp that was tied specifically to the project
14 was, in any particular year, between 10 and 30
15 percent. So -- and for me, it probably started
16 in about the 2008 or '09 time frame, about the
17 time we submitted the license applications,
18 those kind of things. And I have lost portions
19 -- when I say 10 to 30 percent, I have lost 10
20 to 20 percent of the amount for not hitting
21 targets that were outlined in the new nuclear
22 construction project.

23 SENATOR SABB: Targets that were
24 tied to which aspect of the project?

25 MR. BYRNE: It was tied to a

1 couple of things. There was one major module,
2 and I don't remember which one it was, that we
3 were supposed to have set by a certain date.
4 Didn't set it, so I didn't get it. There was
5 another one tied to us licensing operators,
6 senior reactor operators and reactor operators
7 because if you don't have those operators, you
8 can't operate the plant. So even to receive
9 fuel, we would have to have licensed operators,
10 so we had a -- I had a bonus goal one year, and
11 I can't remember which year it was. It was
12 sometime in the last three years, though, that
13 we would be successful at a certain percentage,
14 getting certain percentage of our folks that
15 went up for the licenses, for them to pass.
16 Didn't make that goal, so I didn't get that
17 bonus.

18 SENATOR SABB: So is it fair to
19 say in 2016 that your percentage was 30 percent,
20 as was Mr. Addison's?

21 MR. BYRNE: I can't -- I don't
22 recall exactly what it was. We can certainly
23 get it for you. I don't recall if it was 30
24 percent or if it was 20 percent or if it was 25
25 percent, but it would have been in the 10 to 30

1 percent range.

2 SENATOR SABB: All right. So if
3 you could likewise provide that information, I'd
4 be appreciative.

5 MR. BYRNE: Certainly.

6 SENATOR SABB: Mr. Marsh?

7 MR. MARSH: Mine for 2016 was --
8 excuse me. Mine for 2016 would have been 20
9 percent.

10 SENATOR SABB: So 20 percent of
11 the 1.4 million?

12 MR. MARSH: That's correct.

13 SENATOR SABB: All right, so
14 approximately \$280,000 then.

15 MR. MARSH: That's correct.

16 SENATOR SABB: All right, and you
17 would have received others dating back as far
18 as?

19 MR. MARSH: Well, I would --
20 since the project started. I've been an officer
21 since the project started. I was not the chief
22 executive officer when the project started. I
23 was president of SCE&G, but I would still have
24 had specific goals associated with that
25 construction, and we can provide that.

1 SENATOR SABB: All right, sir.
2 As relates to the Bechtel Report, what I've
3 heard is that, though the written report was not
4 shared with the regulatory staff, that verbal
5 information consistent with the report was
6 given. Was that your testimony under oath?

7 MR. MARSH: Yes. We had provided
8 information in our quarterly reports that we
9 filed every quarter since the project has
10 started. I think there are some 34 reports we
11 filed, and we also provided direct testimony to
12 the Public Service Commission in connection with
13 any of our proceedings related to the project.
14 And I've got this document that's got some of
15 those references in there. If somebody would
16 like it, I'd be happy to leave it with you.

17 SENATOR SABB: Love to have a
18 copy of it, but my specific question would be,
19 as you've examined all of the reports that you
20 filed, as you've reviewed the report itself,
21 what information is contained in the Bechtel
22 Report that was not contained in any of the
23 other information that you filed?

24 MR. MARSH: If you went through
25 and read every single recommendation, I'm sure

1 you might find some that are not specifically
2 found in the report, but we went back and
3 categorized the areas of issues raised in the
4 Bechtel Report, whether it was project
5 management, whether it was engineering,
6 procurement, the major areas they addressed in
7 the report, and we believe those were addressed
8 in our quarterly reports and testimony before
9 the Commission.

10 SENATOR SABB: All right, so it's
11 your testimony under oath today that to the
12 extent that regulatory staff -- well, no; strike
13 that one. Let me start over. So are you
14 satisfied as it relates to the Bechtel Report
15 that your obligation to fully disclose trouble
16 as relates to this project, your obligation to
17 fully disclose those -- both in your testimonies
18 and in your filings, are you satisfied that
19 you've complied with your obligation in terms of
20 the verbal information -- well, I guess verbal
21 and the reports that you filed -- are you
22 satisfied that you shared all of that
23 information to the regulatory staff?

24 MR. MARSH: I -- it was certainly
25 our intent to share all of the information in a

1 written format, whether it be in testimony when
2 we're before the Commission or in these
3 quarterly reports. That was the intent of those
4 reports. I can't speak to all the conversations
5 that were had on-site with the construction team
6 and interactions.

7 There may be other documents. I
8 know the Office of Regulatory Staff from time to
9 time, they did a report identifying issues that
10 they had raised based on their reviews, and many
11 times, we would respond to those issues. I can
12 recall a couple of those letters that would be
13 in addition to what I've got here.

14 SENATOR SABB: Here's what I'm
15 concerned about. I'm concerned about what was
16 shared by the senator from Horry. This whole
17 question as to whether or not there was -- I'll
18 use the term "important" -- important
19 information that was not disclosed to the
20 regulatory staff. I mean, that's, I think, where
21 the rubber meets the road on that issue to the
22 extent that the report itself was not shared
23 and, in fact, in my humble opinion, and you can
24 disagree with me if you want, was essentially
25 hidden from staff, be it because of the fact

1 that it's a privileged document, but the reality
2 is, staff did not know that it existed.

3 And so obviously the question is
4 whether or not there is information contained in
5 the report that was intentionally not given to
6 staff because it would have sent off some red
7 flags in terms of whether or not this project
8 was in trouble, whether or not it would color
9 their recommendations to the Commission, and
10 those kinds of things.

11 I mean, that's where the rubber
12 meets the road on the issue, and so I want to
13 make clear, for purposes of the record, that
14 when you all talk about what you filed, and
15 obviously I've not seen all that you've filed,
16 but when you look at all of your filings, and I
17 understand that you may not be able to recall
18 all of the conversations that went on, but I
19 heard the young lady clearly when she came up
20 there, and it my impression that she felt as if
21 there was information that should have been
22 shared with them that wasn't.

23 And so I just want to ask the
24 question, with you answering, whether or not we
25 are satisfied that what was filed and what was

1 given on the one hand, and the Bechtel Report
2 that was not given on the other hand, whether or
3 not, when one looks at it, he is satisfied that
4 -- I hate to use the term "something sinister"
5 -- but that there was information that was, in
6 fact, that was hidden. That's kind of where I'm
7 heading on that. That was a rambling question,
8 but did you follow it?

9 MR. MARSH: I think I did. It
10 certainly has never been our intent to hide any
11 material information from the Office of
12 Regulatory Staff. We have provided them with
13 space on-site. We have provided them with
14 access to our teams. We have set up a special
15 data room when they've requested information or
16 they want information available to review.
17 We've made that available to them. They have
18 participated in many of our project review
19 meetings. Their teams have been on-site with
20 their outside experts.

21 In addition to their normal
22 staff, he came on-site on a regular basis. I
23 think it was quarterly. He had full access to
24 our team. He had full access to the meetings
25 that were taking place on-site with respect to

1 project progress, and it was certainly our
2 intent to provide all the information we knew to
3 them. We did not try to hide it, disclose it --
4 I mean, to keep in secret, to my knowledge. The
5 Bechtel --

6 SENATOR SABB: well, clearly the
7 Bechtel Report was kept in secret.

8 MR. MARSH: well, I was just
9 getting ready to say, that was secret, or it was
10 confidential --

11 SENATOR SABB: Yes, sir.

12 MR. MARSH: -- because it was
13 prepared in anticipation of litigation. But as
14 we've said before, we believe the significant
15 issues in that report, ORS was aware of those.
16 We had certainly communicated those in various
17 forms, whether it be verbal or in response to
18 their inquiries or participation in our
19 meetings. I believe they were aware of those
20 issues.

21 SENATOR SABB: All right, sir.
22 Last area of inquiry, real quick: the sale of
23 some of Santee Cooper's percentage. I gleaned
24 two things to listening at the testimony. One
25 was that your position was that nothing ought be

1 sold until the project is completed?

2 MR. MARSH: No, that was not an
3 initial condition. When Santee approached us
4 initially wanting to sell a part of the project,
5 we agreed with that. We supported them in that
6 effort, made ourselves available, our project
7 team available to, at this point, it was Duke
8 Energy who was coming in to evaluate a potential
9 purchase of their share.

10 SENATOR SABB: Yes, sir.

11 MR. MARSH: The other efforts
12 they had made prior to that, I'm not aware of
13 any one that got to the point where they wanted
14 to do any due diligence on the project.

15 SENATOR SABB: Okay.

16 MR. MARSH: Only when the Duke
17 sale did not go through -- we went and offered
18 to buy 5 percent from Santee because that was
19 part -- within the range that Duke Energy was
20 planning to sell, and at the same time, we asked
21 that if we would buy the 5 percent to lower
22 their investment, if they would not entertain
23 any additional sales until the project was
24 completed.

25 SENATOR SABB: Yes, sir. Well,

1 let's stay on the Duke Energy thing just for a
2 moment if we might, please. As I understand it,
3 the percentage that was being contemplated was
4 10 percent.

5 MR. MARSH: I -- my memory is 5
6 to 10 percent.

7 SENATOR SABB: All right. Can
8 you help with me that, please?

9 MR. CARTER: At the end, it was
10 10.

11 SENATOR SABB: Yes, sir.

12 MR. CARTER: So there was either
13 10 -- it's a little bit complicated. At one
14 time, it was 20 when we had the two parties
15 under Jim Rogers, but it ultimately went to 10.

16 SENATOR SABB: So I want to stay
17 focused on the 10 percent just for a moment or
18 two. And as I understood it, you had some
19 concerns because Duke Energy was not taking as
20 much risk as you would like to see them take,
21 right?

22 MR. MARSH: Well, they were
23 asking for terms that were different than the
24 terms that Santee Cooper and SCE&G had in the
25 contract.

1 SENATOR SABB: well, I thought
2 you classified it -- and you correct me if I'm
3 wrong -- I thought you said that they were not
4 taking the kind of risk that everybody else was
5 taking, and so therefore, it was unfair.

6 MR. MARSH: If I said that, I
7 certainly stand by that comment because they had
8 not -- they were not willing to take as much
9 risk, based on my recall of the negotiations,
10 than we had.

11 SENATOR SABB: Yeah.

12 MR. MARSH: I recall they wanted
13 certain price protections, and we didn't enjoy
14 those price protections, so if they had enjoyed
15 those and we didn't, it would have come back on
16 our customers.

17 SENATOR SABB: Yes, sir. I guess
18 the thing that troubles me a little bit about
19 that is -- but you're not taking any more risk.
20 SCANA was not.

21 MR. MARSH: well --

22 SENATOR SABB: They were selling
23 -- help me, now. They were selling their
24 interest, right? They were still responsible
25 like they were initially. It's not like you

1 take on greater responsibility because they're
2 selling a portion of what they own.

3 I don't understand how that
4 impacts SCANA at all, and I guess what disturbs
5 me a little bit is when the board gives specific
6 instructions to their CEO to make it happen,
7 their CEO is trying to make it happen, and you
8 all say no when I can't see how it ill-affects
9 you at all. So help me understand how their
10 sale would have negatively impacted your
11 position.

12 MR. MARSH: I don't have all
13 those documents here in front of me, but I would
14 need to review them to see exactly how the cost
15 impacts would be spread, whether to Santee
16 Cooper or to SCANA Corporation or SCE&G. There
17 were also changes in terms of the liability that
18 would give us additional potential liability
19 associated with the project that we did not want
20 to take, and there may have been other terms.

21 Those are two that I remember off
22 the top of my head. But it wasn't just as
23 simple as everything falling to Santee. There
24 were other conditions in the agreement that we
25 didn't think were in the best interest of our

1 company or our customers.

2 SENATOR SABB: well, I'd need to
3 know about that because to me, I mean, just
4 listening to the conversation that you all were
5 having, I didn't see any compelling reasons why
6 you would have, in my opinion, unreasonably
7 withheld -- and I don't know whether that
8 language is in your contract or not as it
9 relates to things that they're trying to do
10 because you're the majority owner -- but it
11 almost appears, just based on what was said
12 earlier, that your position was one of
13 unreasonably withholding something that their
14 board wanted to see happen, that their board
15 obviously believed was in the best interest of
16 their customers, or they would not have given
17 the CEO the directive that they did. So --

18 MR. MARSH: We were supportive of
19 them bringing in another partner. We never
20 objected to pursuing another partner that they
21 put in front of us, and at the end of the day,
22 from an overall perspective, we didn't believe
23 the terms and conditions were consistent with
24 the partnership that we had in place between the
25 two of us, and we'll be happy to go back and

1 document that more specifically for you.

2 SENATOR SABB: Thank you. Mr.
3 Chairman, if you don't mind, just a couple more
4 questions.

5 CHAIRMAN SETZLER: Oh,
6 absolutely.

7 SENATOR SABB: I want to shift
8 gears to --

9 CHAIRMAN SETZLER: You've waited
10 all day, Senator. You're entitled to ask your
11 questions.

12 SENATOR SABB: Thank you, Mr.
13 Chairman. I appreciate it. Can you help me on
14 the issue that I just raised with Mr. Marsh?

15 MR. CARTER: Yes sir, Senator
16 Sabb. I think I can some at least. As I
17 recall, and we can go back and pull these
18 documents, when we really got -- Duke got to
19 looking into this thing pretty carefully, and
20 they were -- because this thing had gone on a
21 long time for them, and I told them, Listen, I
22 need a decision. And we were pressing them to
23 give us a decision. They asked for some special
24 conditions, which is what we're talking about
25 now. And the two that I recall that were

1 problematic for us was, they didn't want to pay
2 until the project was over, and they wanted us
3 to guarantee an amount, a price. Those were the
4 types of terms we were talking about.

5 SENATOR SABB: So --

6 MR. CARTER: So we --

7 SENATOR SABB: Hold on. Stay
8 with me one second, and if you don't mind, let's
9 just kind of talk back and forth. I'm not
10 trying to cut you off or anything. So they
11 wanted 10 percent at a certain price and not for
12 it to vary depending on how long and that kind
13 of thing; is that what you're talking about?

14 MR. CARTER: Yes, sir. In other
15 words, and so they wanted terms that weren't
16 favorable to us, and ultimately, we rejected
17 those, is what I recall. In other words --

18 SENATOR SABB: So stay with me,
19 all right? I know about the one term. You and
20 I just discussed that one. Now, tell me about
21 what other terms you're specifically talking
22 about.

23 MR. CARTER: So there were two
24 pieces that I recall. We can get exactly what
25 they were. I believe they are in the record.

1 But one was that they wanted a cap on the price,
2 a cap. In other words, if the cost went about a
3 certain amount, they didn't have to pay any
4 more, so --

5 SENATOR SABB: All right. They
6 wanted to buy 10 percent at a sum certain.

7 MR. CARTER: Yes, sir, the sum
8 certain, which meant that we would retain --
9 Santee Cooper would retain the risk that it
10 might cost more, and they also -- my
11 recollection is that they wanted a guarantee --
12 so they had the price guarantee, the cap, and
13 they wanted to wait to pay for some of it, is
14 another issue that I believe that was in those
15 terms. In other words, they didn't want to come
16 in and pay up, at least initially. There was
17 some deferral of some of the costs in some way
18 is what I remember.

19 SENATOR SABB: All right, so --

20 MR. CARTER: Now, I may have that
21 wrong, but the ultimate provisions, Senator
22 Sabb, in the -- of those items were, we
23 discussed those with the board, and we decided
24 that those weren't favorable to us.

25 SENATOR SABB: All right. So

1 after the board issued the directive to you to
2 try to make it happen, you then came back to the
3 board, briefed the board on those two issues,
4 and the board decided not to do it.

5 MR. CARTER: Well, that -- we
6 were in concurrence that that was not a sale
7 that we would pursue so we went -- it was a
8 negotiation --

9 SENATOR SABB: Hold on. Hold on.
10 Stay with me. Don't leave me yet. All right,
11 so pointedly, to my question, those two issues
12 that you considered problematic, you went back
13 to the board, told the board, Here are the two
14 issues, and then the board decided, No, we don't
15 want you to pursue it anymore. Is that what
16 happened?

17 MR. CARTER: Yes, sir. In other
18 words, what the board would have been saying is,
19 That's not a transaction that we would approve.

20 SENATOR SABB: So then the board
21 decided that they did not want you to pursue it
22 anymore on the basis of those --

23 MR. CARTER: No, sir, that's not
24 what I'm saying. We're still negotiating with
25 them. We're simply going back to them and

1 telling them, Those aren't acceptable. Here's
2 the package that we'd like you to consider. And
3 ultimately, they didn't --

4 SENATOR SABB: Hold on. I'm
5 sorry. Who is "we"?

6 MR. CARTER: We being Santee
7 Cooper.

8 SENATOR SABB: So you being the
9 executive director who had received the
10 direction from the board -- I'm just trying to
11 understand the hierarchy here. Did you go back
12 to the board, or are you still negotiating
13 outside of the board?

14 MR. CARTER: The board would have
15 known about the status of the negotiation.

16 SENATOR SABB: All right.

17 MR. CARTER: Not only with them,
18 but with all of the parties. We reported to the
19 board at each board meeting who was -- who we
20 would were talking with. At this point, we were
21 down to just Duke. There -- I want to say there
22 were five or six of them. And those are in the
23 record. In fact, I believe that's in the record
24 that we provided to the Senate. I can name a
25 couple. Besides Progress and Duke --

1 SENATOR SABB: No, sir, I was
2 just curious. I'm -- I was just curious. Mr.
3 Chairman, anything on that?

4 MR. LORD: I think that's an
5 accurate characterization. We wanted to sell up
6 to 20, but at least 10 percent, primarily
7 because it lowered the cost for our customers.
8 We had our financial team run the scenarios, and
9 by selling off those interests -- so we were --
10 the board was willing to give up on some of the
11 terms and conditions of the sale, but as Mr.
12 Carter said, at one point, Duke was too
13 aggressive, and it wasn't a good deal.

14 But we asked them to back and try
15 to push on some of those terms and get a deal
16 that would work because getting rid of 10
17 percent made it such a better financial scenario
18 for our customers.

19 SENATOR SABB: That's it.

20 CHAIRMAN SETZLER: That's it?

21 SENATOR SABB: Thank you.

22 CHAIRMAN SETZLER: Mr. Carter,
23 let me ask you, and I didn't ask you this
24 earlier this morning, are you going to be
25 working with Santee Cooper in any capacity once

1 you retire in February, i.e., a consulting
2 contract or any other mechanism?

3 MR. CARTER: No, sir. There is
4 no contract in place after -- other than the
5 existing one. But there's no consulting
6 contract, no, sir.

7 CHAIRMAN SETZLER: Well, your
8 employment contract will terminate when you
9 retire.

10 MR. CARTER: No, sir, it does
11 not. The provisions associated with the
12 noncompete continue and the payments associated
13 with --

14 CHAIRMAN SETZLER: Right, sure,
15 okay, but other than that?

16 MR. CARTER: Other than that,
17 that's it.

18 CHAIRMAN SETZLER: Okay. I want
19 to follow up on what several of these senators
20 have asked. Mr. Carter, if you and the Chairman
21 of the board would provide to us as soon as
22 possible a list of people who are in these two
23 plans, the defined contribution plan, the
24 defined benefit plan, from 2008 to 2017, their
25 salary, their position, their additional

1 compensation, and any other compensation that
2 they receive from Santee Cooper, as well as
3 their position so that we know whether or not
4 they're a vice president or not.

5 MR. CARTER: There are some that
6 are not.

7 CHAIRMAN SETZLER: Okay. But if
8 I understood you, the large number of those 25
9 are vice presidents.

10 MR. CARTER: Or either
11 executives. I believe that will be the larger
12 number.

13 CHAIRMAN SETZLER: Okay.

14 MR. CARTER: And that number
15 could be 25 to 30, and that is the number of --
16 I want to be clear to you, Senator. I'm not --
17 sometimes I don't -- I know when I don't
18 communicate it right.

19 CHAIRMAN SETZLER: Right.

20 MR. CARTER: Those are the people
21 that are currently employed. There's probably
22 another, I'm going to guess and say 15 or 20
23 that are retired that are being paid out under
24 that --

25 CHAIRMAN SETZLER: I understand

1 that. We want anybody --

2 MR. CARTER: You want all of
3 them.

4 CHAIRMAN SETZLER: -- any of them
5 from 2008 to 2017. Mr. Addison, the same thing.
6 We understood y'all were going to submit it
7 before this, but from 2008 to 2017, by employee,
8 by position, the salary, bonus related to this
9 project, and bonus otherwise, and/or any other
10 compensation. Are we okay with that?

11 MR. ADDISON: Yes, sir.

12 CHAIRMAN SETZLER: All right,
13 now, somebody -- we had a discussion last time,
14 and we've been asked specifically by a member of
15 the Senate about this. We talked about
16 mechanic's liens that had been filed, and I
17 believe the correct number is somewhere around
18 \$225 million or \$250 million, if I recall
19 correctly.

20 MR. ADDISON: Latest run I have
21 is 237.

22 CHAIRMAN SETZLER: Okay, 237.
23 Mr. Marsh, in your conversations dealing with
24 the Toshiba settlement and the 2.2, \$2.4
25 million, you never referenced the mechanic's

1 liens. what do y'all intend to do with the
2 \$2237 million of mechanic's liens for companies
3 who have worked on this project who have not
4 been paid for work that they did, and do you
5 intend to resolve those and pay those people?

6 MR. MARSH: That was contemplated
7 as part of the negotiations in the settlement
8 agreement, and we do have an obligation to
9 address those liens, and we have removed those
10 amounts from the gross amount of the settlement
11 in terms of what we think will still be left
12 available for application for customers.

13 CHAIRMAN SETZLER: All right.
14 Then let me go back. The Senator from
15 Orangeburg's question, when you referenced the
16 2.2, 2.4, that's after you take out the
17 mechanic's liens?

18 MR. MARSH: No. The anticipation
19 was that there would be a \$2.2 billion
20 settlement, and I'm rounding that number off.
21 we believe there were \$200 million in liens that
22 needed to be addressed. I don't know that all
23 of those are legitimate, but the legitimate
24 liens, we will have a responsibility to satisfy
25 those, so that brings your settlement down to \$2

1 billion. And from our perspective, we take 55
2 percent of that. That's the \$1.1 billion we've
3 been referencing in our documents.

4 CHAIRMAN SETZLER: Okay.

5 MR. MARSH: So we intend to
6 address those, and I assume we'll have a payment
7 resolution on those that are determined to be
8 legitimate.

9 CHAIRMAN SETZLER: All right.
10 Mr. Byrne, let me ask you a minute, and I'm
11 going to tell you that there is some confusion,
12 at least from the center of this round desk we
13 sit at -- I don't know about the far ends --
14 dealing with intellectual property. So you need
15 to clarify, or either we need to clarify you,
16 when you reference intellectual property, it is
17 the consensus of those folks who have read the
18 Bechtel Report -- it certainly implies, if it
19 doesn't state, that the engineering design on
20 these two facilities was not complete; is that
21 correct?

22 MR. BYRNE: Yeah, the engineering
23 design was not 100 percent complete.

24 CHAIRMAN SETZLER: All right. So
25 if you don't have a complete design, the

1 question begs itself, what good does it do to
2 have it in escrow, and why do you need
3 westinghouse in the future? Because you don't
4 have a complete design.

5 MR. BYRNE: Well, the --

6 CHAIRMAN SETZLER: We need that
7 question answered for this committee.

8 MR. BYRNE: The plant is a
9 westinghouse design plan, so --

10 CHAIRMAN SETZLER: But it's not
11 complete.

12 MR. BYRNE: Well, yeah, but it's
13 mostly complete. The fact -- the base plant,
14 the plant that they could plunk down just about
15 anywhere, that was about complete, and most of
16 what was left was what we would call site-
17 specific engineering. So the -- but the design
18 information was intellectual property of
19 westinghouse.

20 And one of the things you have to
21 do when you complete a design -- if we were to
22 bring in a different engineer,
23 architect/engineer to try to finish this plants,
24 and it's not a very big community, they would
25 have to have access -- questions would come up,

1 and they would have to have access to, why is it
2 that they made this decision? well, that's in
3 the intellectual property. That's in all the
4 backup documentation. That's in all these tapes
5 that we've got escrowed.

6 So -- and in addition to that,
7 the escrow wasn't a one time and done. The
8 intention is that we would, had we decided to go
9 forward, we would update that information as
10 anything to the design would have changed. So
11 these are things like source codes that lead you
12 to the number, okay? So, yeah, I've got the
13 number, I've got the number maybe even in a
14 document control center at the site, but if
15 somebody comes in and they have a question about
16 the number or they want to change that -- you
17 know, the wall has to be this high or the wall
18 has to be this thick; they say, well, why does
19 it have to be that thick -- that information is
20 in the intellectual property.

21 CHAIRMAN SETZLER: But as we
22 understand it, it's not just somebody else that
23 comes in. Westinghouse doesn't have it
24 complete.

25 MR. BYRNE: Well, yeah. So we

1 would have to retain Westinghouse personnel to
2 complete that.

3 CHAIRMAN SETZLER: I'm talking
4 about when they walked -- when y'all shut it
5 down, it wasn't complete at that point --

6 MR. BYRNE: Yep.

7 CHAIRMAN SETZLER: -- the design
8 of the facility.

9 MR. BYRNE: Right. So we're --
10 so the base plant is 99 percent complete,
11 something along those lines. And I could get
12 the site-specific information -- using the
13 Westinghouse information, I could get to the --
14 to finish it with somebody else that would know
15 how to use that information.

16 CHAIRMAN SETZLER: All right, so
17 you entered into a contract to build a facility,
18 knowing that it wasn't designed, correct?

19 MR. BYRNE: That's correct, and
20 that's not unusual.

21 CHAIRMAN SETZLER: And you
22 entered into a fixed-price agreement in 2015,
23 knowing you still didn't have a design.

24 MR. BYRNE: That's correct, and
25 that would have sheltered us from any increases

1 in cost relative to new design.

2 CHAIRMAN SETZLER: Well, that
3 depends on your interpretation of what a fixed-
4 price contract is because in most cases in the
5 construction industry, a fixed-price contract
6 doesn't mean that you won't have change orders
7 which affect the contract price.

8 MR. BYRNE: No contract, fixed-
9 price or otherwise, will shield you from change
10 orders.

11 CHAIRMAN SETZLER: Correct.

12 MR. BYRNE: But the contract that
13 we did --

14 CHAIRMAN SETZLER: So it's really
15 a misnomer.

16 MR. BYRNE: I don't know that
17 it's a misnomer. The contract that we
18 negotiated did limit their ability to make
19 changes. So it would actually have to be a
20 change in the law in order for them to give us a
21 change order or a change that we would have
22 requested, and I'm not aware of any changes that
23 we requested.

24 CHAIRMAN SETZLER: Okay, but you
25 also didn't do much construction after that

1 either. I mean, you're still a long way from
2 finishing these plants. That's the reason you
3 walked off.

4 MR. BYRNE: That's correct, but
5 we did -- from October of 2015 to a couple of
6 months ago, we did do quite a bit of
7 construction.

8 CHAIRMAN SETZLER: All right, so
9 I want to make the record clear because I
10 understood you to testify at the last hearing --
11 well, let's back up. You testified today that
12 in 2018 -- 2019, your words, quote, "we got an
13 acceptable schedule," end quote. You did not
14 get an integrated construction schedule.

15 MR. BYRNE: You said in 2019.

16 CHAIRMAN SETZLER: In 2009.

17 MR. BYRNE: In 2009.

18 CHAIRMAN SETZLER: In 2009, that
19 you -- you testified today, "we got an
20 acceptable schedule."

21 MR. BYRNE: Correct.

22 CHAIRMAN SETZLER: That was not
23 an integrated construction schedule.

24 MR. BYRNE: In 2008, with the
25 contract, we got a schedule. They owed us an

1 integrated project schedule. I think it was
2 September of 2008, they gave us that first pass
3 at an integrated schedule. Our feedback to them
4 was, You haven't incorporated some things. Go
5 back and try again. We -- they went back and
6 tried again, and we got a schedule that we
7 considered acceptable in April of 2009.

8 CHAIRMAN SETZLER: Well, Mr.
9 Byrne, you know, I want to -- let me go at it a
10 different way. You testified at the last
11 hearing that from 2008 to 2017, when this
12 project, when you abandoned it, you never got an
13 integrated construction schedule.

14 MR. BYRNE: No, it's --

15 CHAIRMAN SETZLER: I asked that
16 question specifically, and that's what you
17 answered.

18 MR. BYRNE: So when -- during the
19 last hearing, what we were talking about was the
20 fully integrated, resource-loaded produc --
21 schedule.

22 CHAIRMAN SETZLER: Okay.

23 MR. BYRNE: We had schedules all
24 along, and we had a couple of iterations of
25 integrated project schedules. But they weren't

1 fully integrated, as in -- they would be
2 integrated with procurement, or they'd be
3 integrated with engineering, and what we wanted
4 was something that integrated everything.

5 And we were promised that with
6 independent information from Fluor, who comes
7 onboard as the new construction contractor. We
8 were promised that starting at about mid-2016.
9 They kept delaying and delaying and delaying,
10 and as Mr. Carter said, we never got that, but
11 -- at the time that we stopped them, largely
12 because of their bankruptcy filing and then the
13 problems that Toshiba has.

14 CHAIRMAN SETZLER: All right. So
15 your testimony again today is, you never, in the
16 nine years of this project, got that fully
17 integrated, loaded construction schedule.

18 MR. BYRNE: We had schedules all
19 along, okay, but the fully integrated, resource-
20 loaded schedule that we had been demanding from
21 them that they promised to us in 2016, we did
22 not get.

23 CHAIRMAN SETZLER: All right.
24 Just very candidly, because y'all have
25 intentionally all day, and we've let you do it,

1 used the word "prudent." Do you think it was
2 prudent to go nine years without that fully
3 integrated, loaded construction schedule that
4 you were supposed to get?

5 MR. BYRNE: Yeah, it's not
6 unusual in construction to start off
7 construction without something that's -- that is
8 fully integrated.

9 CHAIRMAN SETZLER: That's not
10 what I'm asking.

11 MR. BYRNE: You start off with --
12 yeah, I do think that it was prudent the way
13 that we approached it, yes.

14 CHAIRMAN SETZLER: So you think
15 it was prudent to go seven years and enter into
16 a fixed-price contract with a contractor who had
17 not provided you the fully integrated, loaded
18 construction schedule for seven years that they
19 had promised you?

20 MR. BYRNE: I do because the
21 schedule was going to offer protections for our
22 customers and shield them from future rate
23 increases.

24 CHAIRMAN SETZLER: Well, you've
25 got a different definition of "prudent" than I

1 do. Senator from Richland.

2 SENATOR SCOTT: Two real quick
3 questions. How much of the \$2 billion and the
4 loss, if we finish the project, will be offset
5 at the \$6 billion? Or the non-associated? The
6 -- a few minutes ago, we talked about you had \$2
7 billion with liens and other items that were
8 still outstanding. How much of that, if we
9 finish the project, and I think you're talking
10 about \$6 billion to finish the project --

11 MR. MARSH: There's only --

12 SENATOR SCOTT: -- how much of
13 that would be offset?

14 MR. MARSH: Well, there's only
15 200 -- I think it was 234, Jimmy?

16 SENATOR SCOTT: 237.

17 MR. MARSH: 237 million in liens,
18 not --

19 SENATOR SCOTT: But you, but you
20 -- but a number -- you mentioned a number about
21 \$2 billion, was your last comment.

22 MR. MARSH: Yeah, the -- and when
23 I hear the \$2.2 billion, if that's the number
24 you're referring to, that's --

25 SENATOR SCOTT: That's what you

1 collected from the ratepayers.

2 MR. MARSH: No, we have not
3 collected that from the ratepayers or the
4 customers. That's the number we're leftover as
5 an abandonment cost after you take the 4.9
6 billion we've spent to date --

7 SENATOR SCOTT: Right.

8 MR. MARSH: -- and subtract from
9 that the Toshiba guarantee, parental guarantee,
10 and the benefit of the tax deductions. That
11 leaves you with \$2.2 billion that we need to
12 manage. That's the question on the table for us
13 is, How do we intend to manage that \$2.2
14 billion?

15 MR. ADDISON: Senator Scott --

16 SENATOR SCOTT: Then my last
17 question: what are your exit plan? Because at
18 some point, there is an exit plan, and we're
19 going to continue to ask questions, and we're
20 going to go back and forth, and we're going to
21 dig deeper and deeper and deeper. What is the
22 exit strategy as it relates to the two
23 companies? I'm pretty sure that your 4.4 and
24 your 4.9 and the tax credits you're hoping to
25 get to cut your numbers -- what is the exit

1 plan?

2 MR. MARSH: Well, our exit plan

3 --

4 SENATOR SCOTT: Exit strategy,
5 because there can't be a plan here. It's a
6 strategy first; then it's a plan. Tell me a
7 little bit about what your thinking is.

8 MR. MARSH: Ultimately, we will
9 have to file with Commission with an approach to
10 manage the \$2.2 billion. It's our desire -- and
11 I expressed this with the House and I believe I
12 expressed this earlier today with the Senate,
13 would be to sit down with an appropriate group
14 and try to negotiate a solution on the \$2.2
15 billion which is a -- in the overall best
16 interest of minimizing costs to customers.

17 Our goal is not to have any
18 future rate increases related to this nuclear
19 project, and I believe if we have an opportunity
20 to sit down and structure a comprehensive
21 settlement from those parties that have an
22 interest in being in that negotiation, I'm
23 confident that we can find a reasonable solution
24 that we could then take to the Commission or
25 deal with in a hearing at the Commission that

1 would conclude our exit strategy.

2 SENATOR SCOTT: Okay. Now, that
3 takes care of the Commission. Now let's talk
4 about the general public, and I think the
5 Senator from Fairfield in his own way is, I
6 guess, is -- as best as he could. I'm going to
7 try a little different strategy. We get the
8 Commission satisfied. We still got the general
9 public, and I think somebody else said that
10 earlier too. How do we work through that? We
11 got \$9.3 billion sitting out there. We get the
12 Commission satisfied, but we've got a \$9.3
13 billion project that's just sitting there.

14 what is our strategy on that?
15 I've heard everything from conversations, spend
16 another \$11 million a year just to put it in
17 holding, but at some point -- that's short term.
18 But at some point, we've got to get to a long-
19 term strategy. What we do with a \$9.3 billion
20 plant. Do we plan to sell it? Do we plan to
21 dismantle it? What do we plan to do? Because
22 we've still got to satisfy all the particulars
23 when it comes down to the consumer.

24 MR. MARSH: The plan that we
25 would present to the Commission, I believe,

1 would address all of those issues. It would
2 address the cost if we desired to maintain the
3 plant in a condition where it could be easily
4 started back up down the road once we finalize
5 those associated costs. I think it would deal
6 with how we have an impact on the cost of
7 customers going forward, which is the cost we're
8 trying to minimize and not have any future rate
9 increases. I think it can address, you know,
10 what it would take to start the project back up.
11 I certainly understand Senator Fanning and to
12 get some specific information on that.

13 In my mind, all of that would be
14 evaluated through the Commission hearing process
15 where everybody's interests are addressed: the
16 companies, the consumers, and anybody that has
17 an interest in determining how that resolution
18 is approved, ultimately, by the Commission.

19 SENATOR SCOTT: will your plan to
20 the Commission also include what the Senator
21 from Orangeburg asked you about? That's the 20
22 percent that's out there. I think the consumer
23 has \$1.7 billion in it, plus or minus. How do
24 we satisfy that as relates to moving forward?
25 Because they spent the 20 percent.

1 And so how do we satisfy those
2 concerns, which really eases the consumer and
3 the consumer knows exactly which direct they're
4 going in? They're either getting a return on
5 their investment or getting what we promised
6 them or getting a refund back. I did the
7 numbers on the refund; I don't think you want to
8 touch a refund.

9 But try to figure out a strategy
10 to try so the consumer know, at the end of the
11 day, this is what's going to happen with them,
12 coupled with whatever the strategy includes, if
13 it's going forward, those who were employed at
14 that location -- I don't remember the exact
15 numbers off the top of my head -- to give them
16 some kind of idea of whether or not they're also
17 going to be going back to work.

18 MR. MARSH: I believe that would
19 all be encompassed in this comprehensive
20 settlement that I have discussed. It would
21 address each party's concerns, whether it deals
22 with the abandonment, the potential start-up of
23 the project, the cost to be borne by customers,
24 how do we minimize the financing cost on
25 customers going forward. Our goal is to reduce

1 that as quickly as we can. I believe that would
2 all be encompassed in this settlement, and I've
3 got notes from all the issues that I think were
4 raised today, and certainly we would plan on
5 addressing those in this settlement.

6 SENATOR SCOTT: Is this a joint
7 effort? Because I got consumers on both sides.
8 I've got the SCE&G, and I've got the co-op
9 consumers who've got money invested in this
10 deal. Is there a joint plan that you guys are
11 going to come up with and come back to us,
12 outside of just going to Commission? There is
13 still a group in here that still need to know
14 what's going to happen, what's going to take
15 place, because we've got to answer to that same
16 constituency base that you collect dollars from.

17 MR. CARTER: I would certainly
18 hope that in the appropriate way, your team is
19 involved in that discussion, in my mind, before
20 we go to the Commission.

21 SENATOR SCOTT: Okay. Okay.
22 That -- he -- I want to hear from the --

23 CHAIRMAN SETZLER: I'm sorry. I
24 thought you were --

25 SENATOR SCOTT: I'm sorry.

1 MR. CARTER: As I said earlier,
2 everything has to be on the table for us, but
3 ultimately, all of Santee Cooper's costs, the
4 only place for them to get recovered is through
5 customers.

6 SENATOR SCOTT: Okay.

7 MR. CARTER: So everything has to
8 be on the table to try to minimize costs to our
9 customers.

10 SENATOR SCOTT: Thank you, Mr.
11 Chairman.

12 CHAIRMAN SETZLER: Senator from
13 Orangeburg.

14 SENATOR HUTTO: You said a minute
15 ago that ultimately, as part of the exit
16 strategy, you hoped to get the right group of
17 people together in the room to negotiate. Who
18 is that group of people; do you know?

19 SENATOR HUTTO: I don't have
20 that specific group, but I'm certain that this
21 group in here wants representation in those
22 discussions. I'm confident that the House of
23 Representatives would like to have
24 representation in those discussions. I think it
25 would be critical that we have Dukes Scott and

1 the team from the Office of Regulatory Staff in
2 those discussions.

3 I think the energy users, the
4 large industrial customers that typical
5 intervene in our cases at the Commission, need
6 to have a seat at that table. Usually Frank
7 Knapp, through the Small Business Chamber of
8 Commerce, has been in those negotiation
9 discussions with us, and there are probably
10 others, but I think anybody that has an interest
11 in helping us find the solution would want a
12 seat at the table in those discussions, and
13 that's typically what we do when we go to the
14 Commission.

15 I mean, one route would be for us
16 to file with the Commission and invite everybody
17 in. My assessment, given the level of concern
18 over this issue and how we need to manage it,
19 that it might be more effective for us to have
20 those discussions before we go to the Commission
21 so we know what everybody's willing to accept.

22 SENATOR HUTTO: But ultimately,
23 only the Commission can make a determination
24 that there was prudence in the abandonment,
25 right?

1 MR. MARSH: They will make that
2 decision; that's correct.

3 SENATOR HUTTO: So that part of
4 it can or cannot be negotiated?

5 MR. MARSH: I think we can take a
6 settlement to the Commission, and they
7 ultimately have to rule on that. But generally,
8 if all the parties that have an interest have
9 agreed, the Commission gives a lot of weight for
10 that, and also, based on the Office of
11 Regulatory Staff's participation in that process
12 as to whether or not they should consider that.

13 SENATOR HUTTO: Okay. Thank you.

14 CHAIRMAN SETZLER: Senator from
15 Horry.

16 SENATOR RANKIN: Real quick. And
17 Mr. Addison, you are the CFO for this project
18 and for South Carolina's SCE&G --

19 MR. ADDISON: Yes, sir.

20 SENATOR RANKIN: -- and SCANA.
21 So I want to kind of quickly touch back on this,
22 They didn't know. They would -- all he -- Dukes
23 -- had to do was ask me, and I would have told
24 him, but I couldn't have told him, this kind of
25 circuitous bit that we heard with Ms. Powell

1 testifying that there were conversations and
2 there was a written request of your finance
3 team, correct?

4 MR. ADDISON: Well, what I heard
5 was -- from Ms. Powell was the Business and
6 Finance team. I mean, that's kind of hybrid
7 reference to some that are in the line
8 organization and some that are in the finance
9 organization.

10 SENATOR RANKIN: But they're in
11 your organization, is my question; is that true?

12 MR. ADDISON: Not necessarily.
13 I'm not sure who she's referring to. Some could
14 be --

15 SENATOR RANKIN: Well --

16 MR. ADDISON: -- in Mr. Byrne's.

17 SENATOR RANKIN: So if, in fact,
18 there is a written request, as has been
19 testified to, seeking information from SCANA,
20 affirmatively seeking information that was not
21 produced -- and, perhaps, a pure hypothetical,
22 but I doubt that they're going to be testifying
23 to something that they can't document.

24 And your position is that -- or,
25 Mr. Marsh, that they would not have known about

1 this. wouldn't you have known that Bechtel had
2 already issued a report highly critical of your
3 management of the project, therefore casting
4 great doubt over whether this fixed-price
5 agreement should have ever been represented to
6 the public and ORS and adopted by the Public
7 Service Commission?

8 MR. ADDISON: No, sir, I don't
9 believe so, and the reason is, I was not
10 involved in the presentations or reviewed the
11 report. I have not been involved in that
12 process.

13 SENATOR RANKIN: So you would not
14 know at all of any formal requests by ORS for
15 anything dealing with your ability to carry out
16 this project, to finance this project, to manage
17 this project?

18 MR. ADDISON: Well, certainly,
19 I'm aware when they have inquiries in -- that
20 relate to my area. I'm not aware of an inquiry
21 related to this report.

22 SENATOR RANKIN: So, Mr. Marsh,
23 if you are now saying that we want to have a
24 conversation and many seats at the table, one
25 which would include ORS, and the representation

1 the attorney. We didn't get an attorney to hide
2 information. We got an attorney to validate
3 concerns we've had on the project that I believe
4 were well known to ORS and their staff, based on
5 communications we've had with them, their
6 interactions with people at the site, the
7 quarterly reports we have filed with the
8 Commission, and the direct testimony we have
9 given to the Commission. It's never been our
10 intent to hide information from the Office of
11 Regulatory Staff.

12 SENATOR RANKIN: But is it -- and
13 I hate to interrupt. Never your intent, I
14 didn't mean to do it, but I did it. Didn't you
15 not produce it? You did it, right? You're
16 sorry that you didn't do it, but, in fact,
17 you've had testimony today saying they asked,
18 proactively asked, yet you didn't do it. How is
19 that anything other thing bad faith?

20 MR. MARSH: Because the document
21 was prepared in anticipation of litigation, and
22 we believed it to be confidential. We still
23 believe that today. I know you've been provided
24 a copy of that document, and we've certainly
25 been doing our best to respond to questions

1 about the information contained in the report.
2 But we have not tried to deceive anyone. We
3 have not tried to hide information. We simply
4 believe the document was confidential because it
5 was prepared in anticipation of litigation.

6 with respect to our dealing to
7 Dukes Scott and the Office of Regulatory Staff,
8 I have dealt with them the majority of my
9 career, since the Office of Regulatory Staff was
10 formed. We don't always agree. Many times we
11 disagree, which is why we have to sit down and
12 find common ground with these settlements that
13 we reach. I think it would be very awkward for
14 us to try to craft any type of settlement
15 without the Office of Regulatory Staff in the
16 room with their knowledge of the project and all
17 the accounting and financial issues and the
18 orders that could likely be issued by the
19 Commission regarding the abandonment decision.

20 SENATOR RANKIN: That assumes,
21 and again, the Lord willing, there's peace and
22 harmony and resolution, and nobody has to pay
23 for the risk that SCANA undertook and that
24 Santee Cooper, as a minority party, or partner,
25 undertook. But you're assuming a settlement,

1 yet you are going to have to go before the very
2 committee, Public Service Commission, who takes
3 recommendations from ORS to give you what you
4 want if you don't get a deal; isn't that
5 correct?

6 MR. MARSH: Well, I mean, we
7 always have to go back to the Commission, and
8 it's certainly in our best interest to try to
9 explain our position and reach an agreement with
10 the Office of Regulatory Staff. That doesn't
11 always happen. I believe in this case, we've
12 got an opportunity to do that.

13 I know it's unpopular when I say
14 this. I know people don't like it when I say
15 this, but the Base Load Review Act, which was
16 the foundation of the construction project which
17 we undertook -- we've said before, we would not
18 have been able to do that without the Base Load
19 Review Act. The Base Load Review Act explicitly
20 provides for our ability to recover the dollars
21 associated with an abandoned project. We
22 understand that would be a burden on customers.
23 We understand customers have paid for eight,
24 nine years on a project that now, we prudently
25 decided to stop, but we prudently decided to

1 begin this project.

2 We made every effort from our
3 team, and I continue to believe our management
4 team was sufficient in the oversight of the
5 project and that we would not have had a
6 different outcome today had we done some sort of
7 oversight role. I believe we would have reached
8 the same decision based on the bankruptcy of
9 Westinghouse. But we want to minimize the
10 impact on customers going forward. I'll say it
11 again: Our goal is to have no future increases
12 associated with this nuclear plant in a
13 potential settlement that I'm hopeful we can
14 reach with all those who have an interest in
15 finding a way to go forward.

16 CHAIRMAN SETZLER: Okay. Let me
17 follow up on that just a minute. You know, I
18 guess I've got to be candid with you. Everybody
19 that I know in life, including myself, make
20 mistakes. Sometime we have to just stand up and
21 say, I made a mistake, and I regret a made a
22 mistake, or, I'm sorry.

23 And what I continue to hear and I
24 think the public continues to hear is, from
25 Santee Cooper, well, we were the minority party

1 in this deal, and Westinghouse went bankrupt;
2 oh, by the way, we didn't go tell anybody with
3 the state that we were in trouble with this
4 project. And SCANA continues to say, Prudent,
5 prudent, prudent, prudent, prudent and never
6 says -- neither one of you have ever said, we
7 made a mistake, of any kind.

8 In nine years that this project's
9 going on, I've -- we've held two hearings.
10 Nobody said, we made a mistake, anywhere. And
11 that just gives me great concern, and I can tell
12 you, that's what the public is talking about.
13 The next meeting is scheduled for October the
14 11th. I don't know whether we'll need y'all or
15 not. We will let you know that once we receive
16 the information.

17 06:25:01

18 (END OF VIDEO FILE)

19
20
21
22
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE OF TRANSCRIPTIONIST

I, Susan K. von Keller, do hereby certify:

That the foregoing audio file entitled
“South Carolina Senate, V. C. Summer Nuclear
Project Review Committee, September 18, 2017”
was transcribed; that the foregoing transcript
as typed is a true, accurate and complete record
of the audio file to the best of my ability
under the prevailing circumstances.

I further certify that I am neither related
to nor counsel for any party to the cause
pending or interested in the events thereof.

Witness my hand, I have hereunto affixed my
official seal this 6th day of October, 2017, at
Columbia, Richland County, South Carolina.

Susan K. von Keller

Notary Public

State of South Carolina at Large

My Commission expires:

March 8, 2026